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ABSTRACT

Focusing on issues in mass communication, the six articles in this journal issue cover many facets and approaches to the topics. The first article offers a review of recent developments in the field and some comments about its future. The second article reviews feminism in comedies from the 1930s and in a current film, and the third analyzes the film version of the urban rebel. The fourth article discusses the implications for television programing of "Florida vs. Zamora," while the fifth offers research concerning audience production functions. The final article reviews key court cases concerning television and the courtroom. (FL)

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THE ENCODER

Journal of the Metropolitan Washington Communication Association

Volume 6 Fall 1978 Number 1

Theme Issue on Mass Communication

Editor, Malthon M. Anapol, Howard University

Associate Editor, Mohammad Jahed, Howard University

The Encoder is published by the Metropolitan Washington Communication Association. There will be three issues published during the academic year, Fall, Winter, and Spring. Each issue will be developed around a theme or concept, although articles not related to the theme may be included from time to time. The current issue is devoted to Mass Communication. The Winter issue which has a submission deadline of January 3, 1979, will be concerned with Health Communication, while the Spring issue will be concerned with Classroom Communication. It will have a deadline of March 1, 1979.

The Encoder will consider articles utilizing either the MLA Style Sheet (second edition) or the APA Publication Manual (second edition.) We ask that authors be consistent in the use of either system. We will consider any original article related to the theory, practice, or teaching of communication; we prefer articles of 2,000 words or less or with instructional resources, audiovisual materials, bilbiographies, or course materials. We also invite the submission of news and notes items for our news section, "Potomac Patter."

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FROM THE EDITOR. . .

From looking over the table of contents your editor concludes that although no one planned it that way our current issue on mass communication has turned out to be a sampling from the many facets and approaches to mass communication.

Once again we have contributions from old hands and new faces. Dean Robert R. Smith of the Temple University School of Communications opens our issue with a review or recent developments and some thoughts about the future. Following this are two articles on film criticism, one from an established author of film criticism and text books, and one from a rising younger writer on film. We also have two articles on the legal aspects of mass communication by contributors to last fall's issue on communication and law. The empirical tradition of research in mass communication is represented by a study on television violence. The result is an interesting useful examination of the many aspects of mass communications research.

Another point that is gleaned from an examination of *Encoder* issues from last year, our first as a theme oriented journal, and a review of our themes this year - is that most of our themes involve growth areas of our discipline. Again that is the result of chance, but it seems fortuitous. Finally, we are getting more and higher quality submissions of manuscripts. For this reason we are building up a reserve of quality articles which we hope to utilize in future issues. Our winter issue (deadline January 3, 1979) will have Health Communications as its theme, and the spring issue (deadline March 1, 1979) will be developed on the theme of Classroom Communication.

Jerry Hendrix of American University was the first editor of the *Encoder* and designer of the cover which we continue to use. Jerry will be conducting research in South America during the spring semester while he is on a sabatical. We all wish him bon voyage and we hereby appoint him as our special correspondent in Latin America.

POTOMAC PATTER

The Metropolitan Washington Communication Association and the Department of Fine and Performing Arts of George Mason University are happy to announce their joint sponsorship of the M.W.C.A. Individual Events Tournaments to be held on the campus of George Masom University. This year there will be *two* tournamants held:

1. Saturday, December 9, 1978
2. Saturday, February 24, 1979

Highlights of the tournament include:

1. Competition in *nine* different events, with two preliminary rounds and a final round in each event.

2. Awards will be made to *all* finalists in every event.

3. Any school may enter as many contestants per event as it wishes. Also, there is no limit on the number of events a given contestant may enter.

4. The entire tournament will be conducted in *one* day, so that most schools will have no overnight room and board expenses.

5. Sweepstakes trophies will be awarded to the top *five* schools. As the tournament host, George Mason University will *not* be eligible for a sweepstakes trophy.

6. If the money paid in registration fees exceeds the tournament costs, *all* excess money will be refunded to the schools attending!

We hope that we have stimulated your interest in attending the M.W.C.A. Individual Events Tournaments. We look forward to seeing you on both Saturday, December 9 and Saturday, February 24.

Also to be held at George Mason University will be the Basic Course Workshop on April 21, 1979. You should contact Vice-President Bruce B. Manchester about any of the preceeding events.

The Eighth Annual Howard University Communication Conferencce will be at the Shoreham Americana Hotel on February 14-18, 1979. The theme this year is Communications and Health, and you should write or telephone Ms. Peggy Pinn, Conference Coordinator, (636-769O) at the Howard School of Communications for information.

The Annual MWCA Research Conference will be held on March 3, 1979 at American University. Contact First Vice-President Bill Ternent for details.

MCWA hosted a sucessful Fall Theatre Party on Sunday, October 27, 1978. Fifty-nine seats were reserved for MWCA members and guests at "A Whitman Sonata," a musical production staged at The New Playwright Theatre in Washington, D.C.

Three MWCA officers (Milt, Joe and Brenda) attended the Speech Communication Association National Convention in Minneapolis, November 2-5.

Future MWCA events include two Forensic Tournaments (December 9 and February 24) at George Mason University coordinated by Bruce Manchester; the Winter Research Conference (March 3, 1979 at Northern Virginia Community College, Annadale Campus) coordinated by First Vice-President Bill Ternent; The Basic Course Conference (April 21, 1979 at George Mason University) conducted by Second Vice-President Bruce Manchester; and a Spring Pot-Luck Supper.

The 1979 ECA Convention will be on May 5-7, 1979 at the Hilton Hotel of PHiladelphia, it follows ICA which is also meeting in philadelphia on May 1-5, 1979. For details write or phone Executive Secretary Carolyn Del Polito, Speech Communication, West Chester State College, West Chester, Penn 19830, phone 215-436-2283.

Tentative Notes for An Uncertain Future

Or

Where Were We When The Revolution Passed By?

Robert Smith

Temple University

It is commonplace that we are in the midst of a communication revolution. We read about the contributions of new technologies to the revolution: satellites, Xerox, electronic fund transfers and other changes in our ways of living. We hear about improvements in old technologies of commmunication: electronic editing and typesetting for newspapers, stereo for AM radio. We hear about the impact of the revolution on public policy: the possible abandonment of the public interest standard in broadcasting, the decision to "go competitive" in space. Communication activities, we hear, are major contributors to the gross national product. Yet, in the midst of this revolutionary activity, we live with an anomoly: our cirricula, the expectations of our students, and the apparent expectations of the world off the campus seem to be much as they were in, say, 1955.

Are communication schools in the rear-guard of the revolution? Or is there, in fact, enough change in the practice of communication to justify the rhetoric often used in describing the field? Where has the revolution occurred? Who benefits from it? Is it changing the field as we study it?

Such questions are too broad to be answered with a single argument. I propose to make a number of observations, most of them self-evident, and attempt to draw from them a possible answer to the question: what should communication schools do to prepare for an uncertain future?

1. The often-cited contribution of "communication activity"is, to some extent, a matter of changing definitions. When the typing pool was defined as "clerical help" and carbon paper was categorized as "office supplies", neither item was identified with communication. When the typist became the "word-processing center" and carbon paper was replaced by photo-reproduction, these new items, reflecting our self-consciousness about communication in the 1970's, became "communication activities." The amount spent for such activity is, of course, enormous. But the growth from a modest estimate of communication activity pre-World War II and the vast estimates made of current activity reflect some real growth augmented by changing

definitions. What was an office expense is now a communication system. When our estimates of growth in expenditures for communication are based, in part, on changing definitions, we create the temporary illusion of enormous activity. Creating growth by shifting definitions is rather like spending capital: mail services, industrial information services and numerous other economic activities have become re-defined communication.

This re-definition, although it brought a temporary rapid increase in the apparent expenditures for communication, carries with it a long-term restraining device. The new level of expenditures, unless enlarged to include, say, psychiatry and attendance at sports events, is likely to grow in rough proportion to the remainder of the economy.

In short, it is possible that at least a portion of the communication revolution is a product of re-defining industrial categories. There is, no doubt, real growth in these activities; but whether that growth is revolutionary is an open question.

2. Although expenditures for communication activities has increased, the number of jobs calling for professional training has increased at a much slower rate. Broadcasting has shown a modest increase in employment in the last decade; journalism a slight decline in dailies, a slight increase in weeklies; film a slight decrease; public relations and advertising, modest increases.

Where has all the money gone? In large part, for new machines or for additional services from older devices and services. To a surprising extent, the communication revolution has been a revolution of devices rather than of content or people.

The vast capital called for in building a satellite system, or a cable system, results in increased employment in the design and manufacturing end of our economy. Since much of the new technology is used for the re-distribution of existing messages, there has been relatively slight impact on those trades, guilds, and professions which deal with message content: writers, directors, photographers, editors,etc.

This bias in expenditures toward equipment rather than people is particularly evident in developing countries. An estimate of an $8 billion expenditures to bring telephone service to Saudi Arabia is superficially revolutionary. If one asks what-- in terms of trained personnel - will be needed, the impact of such expenditures seems much less promising.

3. It is likely that the communication revolution will have an impact in the near future in only a minor way. Some students will find their way in planning and rate-setting activities, others into sales aspects of the equipment growth. The majority of our students will be affected, however, only when the new systems begin to carry messages.

Is it likely? New telephone systems, instant Super-8 m.m. cameras, electronic fund transfers and similar activities will call for little in the way of the skills we now provide. Satellite systems when they connect

cable systems or other outlets not tied to the three major television networks, may offer greater opportunity.

The problem for a communication school faculty is a complex one: should they wait for the eventual slow growth in the need for message-makers? Or should they revise curricula to emphasis economics, equipment utilization and systems planning, so that their students may participate in the revolution now taking place? Academic planners are conservative and cautious; simple inertia favors the first solution. One suspects, however, that those who wait may find themselves reduced to adjunct to engineering and economics departments. The revolution may have been over-promoted and misunderstood, but it's the only real growth we have in the field today.

One of the charms of communication as an academic field is that it is permissable to include almost any other discipline as a sub-set of our own. Survey research is taught alongside film directing; dramatic literature may be listed next to broadcast management. A "strong" department has often been one in which the individual courses and faculty are strong, even though there may be no easily apparent coherent design in the departmental faculty, courses or curricula.

Is this a time for purification, or a time to increase our eclecticism by including more from economics and engineering? Purity has its attractions - who wouldn't enjoy designing a simple, coherent, unified curriculum?-but I suspect the eclectics will carry the day. The threat presented by the revolution is not that it will warp, destroy or supplant our existing curricula, but rather that we may forget that our strength lies in our municipality. Communication as a field of study is like sumac: we have rhizomes radiating in every direction. Our shoots appear among the oaks in the hard sciences and the birches in the humanities. Perhaps we can thrive best if we cultivate our rhizomes.

Dr. Robert Smith is the newly installed Dean of the School of Communications at Temple University in Philadelphia.

Women at Work - in "True Confession", "His Girl Friday" and "Unmarried Woman"

T. J. Ross

Fairleigh Dickinson University, Madison

I.

In recent years, the feminist aspect of the great screwball comedies of the late thirties and forties has come to be more and more appreciated. Critics like Molly Haskell and Pauline Kael have praised these films not only for their presentation of vibrantly independent heroines, but also for the way these films succeeded, when pairing heroine with hero, in giving us couples matched in an ideal parity of prerogatives and expressiveness.

Such parity between the sexes would seem essential to social comedy, as George Meredith noted in his classic essay on the subject. And the equality in the treatment of the sexes that we find in the plays of Moliere or Congreve or Shaw or Wilde or Coward, we find too in the film comedies of William Wellman or Howard Hawks or Leo McCarey.

At the present time, with its fashion and imperatives geared to liberation-on-all-fronts, it is hard to imagine a subject to which audiences would be more attuned than the state-and fate-of the couple now. The couple in the age of liberation - it seems a made-to-order text for the times, yet what screen couple has come along lately to move and engage us anywhere near as much as the couples of classic screwball comedy? It is a long time indeed since we enjoyed seeing on screen couples whose teaming up served to enrich, rather than impoverish, the individuality of each.

That the classic comedies maintain their appeal as something more than documents of historical interest is evident in the way students respond to them in film courses, where they prove among the most popular choices on the 'syllabus' - and the most sure to spark discussion. Here I should like to set two such films considered in particular with respect to the role and style of their heroines, against a representative try in the current cycle of serio-comic feminist films: *An Unmarried Woman*. In the perspective of the earlier comedies, we may gain a few pointers not only on what we had then but also what we so far have - and what we may be missing - now.

II.

In comparison to *His Girl Friday*, a long-celebrated masterwork in the screwball line, *True Confession* is run-of-the-mill. Directed in 1937 by Wesley Ruggles, and rarely attaining to a level beyond that of a pleasant frolic, it serves our purposes all the more, in providing us, in its average qualities, with an altogether typical specimen. In nothing is it more typical than in its one outstanding quality - which is to say, the quality of its heroine. Carole Lombard was among the greatest of film comediennes, and characteristic of the screwball comedy was the presence of a strong feminine lead. In *True Confession* Lombard plays against a rather colorless leading man, Fred MacMurray, as stodgy and wooden as she is febrile and constantly in motion. This difference between a woman on the go and a man so motionless as to seem a potted plant ensures the personality conflict from which the action derives.

In contrast to her husband MacMurray, glum and severe in his sense of principle and "honesty," Lombard plays a complusive liar, who will say anything in order to get her way. She lies that she has accidentally poisoned herself to a friend in order to get her to come round for a visit, as later she fakes drowning in order to bring round her husband during a quarrel. Jean-Paul Sartre once observed that the young are likely to lie the most since they are the most vulnerable to social pressures. And in his *The Comic Mind*, Gerald Mast has noted that adults in screwball comedies come across as 'screwball' precisely for behaving with the irresponsibility of children. Mast further notes that their 'crazy' childishness, however, marked a means of resistance to the more repressive forms of the social order.

All of which fits Lombard's case. Her lies reflect her sense of vulnerability as a woman - and her means of resistance to the passive role she is expected to play. Thus her lies keep her at the center of the action. As she exerts the counter-pressure of her 'wild stories' against the pressure exerted on her by her husband, would-be seducer, police
All of which fits Lombard's case. Her lies reflect her sense of vulnerability as a woman - and her means of resistance to the passive role she is expected to play. Thus her lies keep her at the center of the action. As she exerts the counter-pressure of her 'wild stories' against the pressure exerted on her by her husband, would-be seducer, police inspectors, and finally, a courtroom judge and jury, Lombard in fact controls the action. It is her decisions that determine the the course of events. Her key decision, over which she and her husband remain at odds, is to work. His idea is that she allow her survival to depend on him, though we see him at the start as a penniless lawyer. His motive is clearly male chauvinist since the only objection he raises to her earning her way is that such behavior would threaten his ego. His principles prove narrowly self-centered - so much so that he tags her doings as "crazy". Not that she hesitates to describe him as "crazy" in making up a story to fob off a salesman about to reposses a typewriter not paid for.

Indeed all of the main characters in the film take turns in calling one another "crazy". And given the cast of characters it is easy to see why: John Barrymore, in one of his familiar drunken barfly roles; Lynn Overman, as a contemptuous needling bartender; Porter Hall, as a prosecuting attorney who literally jumps up and down to make his points; and the slow burn specialist, Edgar Kennedy, not the most sane and steady of character types at the best of times playing here - of all things- a police inspector. The point precisely, as in Shaw's *Candida* where the characters also take turns calling each other mad, is that in a 'mad world' craziness becomes a norm for survival. In such a world no one looks more weird than the upright and uptight MacMurray whose addiction to priniciple proves morally obtuse and, in its inflexible obtuseness, comic. If Lombard is the center of the action, he is the butt.

Lies are a form of storytelling and her impromptu exercises in the form Lombard proves remarkably creative. The wild stories that she makes up on the spot seem sparks indeed struck off from the directly fictional efforts at which we see her dabbling at film's beginning and which her friend criticizes for dealing with "crazy characters that nobody could believe in" - very like, that is, the characters of screwball comedy, the wavelengths of whose humor were charged in fact with implications that spoke to the most sensitive and adult of audience concerns.

As a form of creative play, Lombard's "true confessions" create a chaos in an oppressive - and apprehensive - social order which otherwise would allow no play to her energies and pursuits. She shakes up the scene in order to find room for acting in it. She goes so far in her amoral gamesmanship as to apply for a secretarial post for which she has no qualifications. In this instance, however, she is herself put on, since the businessman to whom she applies proves also to be playing a game, as she becomes aware when, removing the note pad from her lap, he invites her on his.

Lombard scoots off, only to find herself soon after implicated in her would-be employer's mysterious death. What saves her, when she is put on trial for murder, is again her creative sense of play. Lombard 'confesses' to murder in self-defense against sexual assault and she and her husband act out their version of what really happened in a play-within-the-trial for the jury. Lombard flings herself into her role with such enthusiasm that the jury votes for acquittal. This most whooping of her 'acts' - this further lie -services the interests of justice since, despite a heavy array of evidence, Lombard is not after all guilty.

In serving justice, Lombard's act also serves her career and her husband's. As she had predicted, his winning her case provides the perfect launching pad for his career. "You'll be sensational!" she had cried, in bringing him along. Her celebrity as a courtroom star also propels her into stardom as a journalist. With her imagination moving in full gear, she provides the newspapers with an account of her adventures - not unfairly titled: "My Life - My Struggle" - embellished

with the sort of personal trimmings today indentified with the style of the new journalism.

The film's humor, which borders on the 'absurd' in its premise that nothing any longer could be taken for granted, spoke to audience sensitivities at a time when the fall of the stock market was accompanied by a shaking up of traditional social and moral values. No longer, among other things, could notions concerning the family as structured around the divine right of fathers any longer be taken simply for granted, no more than the values ordinarily associated with law-giving fathers and honest workers. The imbalance of the characters of screwball comedy reflects a world out of kilter. None of the characters seems to be able to stand straight but rather each comes on tilting this way and that as if maintaining a precarious footing on the edge of things. To those on the edge, the standard [illegible]les of behavior for surviving, let along thriving, in the world no lo[illegible]ered a handle.

The comedies satisfied audiences throu[illegible]rticulating their problems - and playing with them. There are no s[illegible]ions implicit in the action but only hints of possibility, of option[illegible]aiting to be explored. In assuming such possibilities, the comedie[illegible]ere optimistic. At the same time they remain strikingly honest - f[illegible] commercial films - in their tentative, open-ended final sequences. [illegible] the wind up shots of *True Confession*, for example, we see our couple once more quarrelling in the midst of their newfound affluence at 'Lake Martha'. Still bothered with his integrity prob[illegible]m, MacMurray nags at his wife for the deceptions and mayhem which led to their winning out. She counters with a tongue-in-cheek announcement of her pregnancy. Nor does MacMurray blow up when this too proves another story. Softened by the possibility contained in the lie, MacMurray joins his wife as they walk off into the sunset. What remains sure, however, is that they are not strolling off to live happy ever afer. Each knows they will be at it again tooth-and-nail the next day and the day after. Their final embrace marks at best an a[illegible]ed truce; for the conflict of principles and personalities they embody will stay with them as indeed such conflicts abide in life, to vitalize day-by-day experience. This open-endedness which characterized screwball comedies, in contrast to other popular genres usually shaped in 'closed' forms and styles, further reveals the aim of the comedies in articulating - indeed celebrating - the ongoing energies and passions of everyday life. And rather than closing the hatch on such energies, the films spotlighted strategies of release - by way especially of the quick, improvisatory style of their heroines.

In her screen portrayals, Lombard always stopped short of either outright rebellion or full militant awareness of the implications of her role: she remained conciliatory in manner. In nothing is her manner more like a child's than in its ingratiating defensiveness. Rosalind Russell begins where Lombard's conciliatory style leaves off. From the start, as in *His Girl Friday*, she assumes equal footing in the world of action, which for her does not by definition mean 'a man's world' to be

entered by a woman only when masked. In contrast to Lombard, Russell comes on unmasked, open in her sense of personal and professional prerogatives. Like her fellow crime reporters she wears her hat on indoors and lights her own cigarettes. Indeed her wide-brimmed, jauntily tilted hat, and pin-striped dark tailored jacket and suit exactly correspond to the fedora and pin-striped suit traditionally worn by men of business. We see her to engage in the sort of activity ordinarily associated with the gung-ho male when she tackles and brings down a man on the run. In another scene, she takes the gun away from a hysterical convict with an aplomb that recalls a Pat O'Brien or John Wayne disarming a heavy.

For all this, she does not lose in the least in sexual charm. That Cary Grant admires and wants her as a reporter for the newspaper he edits does not conflict with his admiring and wanting her as a woman. What is most striking about this film of 1940, is that it presents a woman whose personal appeal is reinforced by her professional competence. Her sexual identity is indeed re-asserted rather than through her role in public life. In a characteristically casual-seeming, throwaway shot, director Howard Hawks alerts us to his focus on-precisely-a woman at work. In chasing after a trial witness, Russell hastily steps from a curb into an onrushing flow of traffic. In course of this action she automatically lifts her skirt, to startle us with a glimpse of her thigh. In the context of events and characterization, it is clear that what Hawk is after here, in this flash of flesh at a moment when our heroin is most unself-consciously engaged in the pursuit required of her job, is not a cheap shot at the discrepancy between her sex and her behavior. Rather, the shot aims at reinforcing our sense of the integrity of both her identity and her actions. Traditionally, a man's sexual charisma has been seen as reinforced by his professional competence and authority. *His Girl Friday* remains exceptional in applying that same premise to women.

III.

The women of both *True Confession* and *His Girl Friday* are seen and tested not only in their romantic and personal relationships but also as they handle themselves opposite a spectrum of male characters, from office boys to govenors, who typify, however comically or crazily, various levels of the workdaday world. The heroines' own dimensions as persons are enriched through their being seen in relation to a wide range of other persons.

The first thing to be said, by contrast, about *An Unmarried Woman* is the curious narrowness of the range, an the kinds, of action we see its title figure involved in. Doubly curious, in light of the film's appearance this year as one of the more critically and commmercially successful works to have come along on the recent wave of films attempting to updated focus on women and their story and prospects now. Par-

ticularly from male reviewers, spanning a distance from *Film Comment* to England's *New Statesman*, the film has received friendly and respectful, if not rapturous, reviews.

Yet is is perhaps the familiarity of the film's treatment of its subject that accounts for the friendly, if uninspired, response it has elicited. Even the film's title is derivative, taking its cue from *A Married Woman*, the brilliant and innovative film directed by Jean-Luc Godard in 1964. But unlike Godard's film which is about what its title promises, director Paul Mazursky's film might more aptly have been called *A Divorced Woman* since what it deals with are the problems and events immediately following on the divorce of a woman who had been long married and comfortably situated as the wife of a stock broker.

The opening scenes of the film depict the cosiness and stability - including sexual stability - of the heroine's marriage. No wonder, when her husband flies the coop, the heroine is so shocked that she first thinks to consult her doctor (who leaves her more dismayed than ever when he makes a pass). She then consults a female psychotherapist, who advises her to forgo unwarranted guilt feelings and cultivate her freedom. All of which may have some bearing on the problems of the newly divorced but surely does not generally apply to those who are veterans of the single life. It is also in telling contrast to the psychology of the heroines of screwball comedy, all of whom were free of guilt.

If our times, like our heroin, seem less carefree than the depression-haunted thirties, it is perhaps due to the pressures of liberationist slogans and libertarian options. At any rate, our present heroine (Jill Clayburgh) seems far more cramped on her rounds than a Russell or Lombard, as she seeks to cultivate her freedom and reshape her self-image. Although she has some sort of secretarial job at an art studio, we see her most of the time either at lunch with here girlfriends or engaged with her lovers. As noted, her range of doings is narrow - and narow through its concentration on her leisure pursuits.

Nor do the lunching women talk about career pursuits: their conversation, as fashionably raw as it is lacking in wit, is given over to accounts of doings with men, frank enough in their detail to be the sort of thing one would expect to hear in a psychotherapeutic encounter session. Or else, they exchange wistful notes on old movies and movie heroines - which the film-maker would seem to consider an equally fashionable bit but which in fact proves deplorably cute. The only thing needed to complete this charmless circle, or so it seemed to one viewer, was the presence of the indefatigably morose Shelley Winters.

In the scene between Clayburgh and her tense, iron-jawed daughter, we find the main topic of discussion to be, sure enough, the daughter's boyfriend and what his true motives may be. And what seems foremost in the wife's mind, once her husband has departed, is to regain her sexual confidence. She therefore hastens to the loft of a painter whose brusque advances she had before - most understandably - rejected. The loft serves as a convenient facility for a sex tune up. Her action, one

gathers, is motivated by therapeutic concerns as well as an urge to even the score with her husband.

At this crass point in the action, it is high time that Alan Bates emerge out of the blue, to introduce a higher tone to the proceedings. He reminds our heroine that she is indeed truly lovable, and after avowals of love, invites her to join him for the summer in Vermont. But not much dramatic tension is generated when she faces the choice of summering in Vermont or not. For her decision seems aimed more at underlining a debating point than to depend on anything of larger consequence. The characters themselves maintain their cool and so do we.

In screwball comedy, we were made feelingly aware of the crucible of pressures and challenges that led to the participants' being "temperamental", or even "crazy". One reason the action of *An Unmarried Women* never heats up is that the characters in fact exert so little personal demand or pressure against one another. Except on occasion for Clayburgh, the other characters play their roles 'laid back' - none more so than Bates who never allows the surly powers he revealed in a film like *Butley* to surface in this one. He seems to have decided that to play a part in a sophisticated, woman-centered film, he would do best to remain in shadow. Like the medical people the heroine consults, like the numb stud she beds, like her luncheon circle, he too, in his relation to her, fulfills mainly a therapeutic function.

Nor does Clayburgh exert any real demand on Bates. The two therefore don't jell: although they are - inevitably - shown in bed or exchanging confidences at breakfast, none of their scenes in the least transmits the sexual vibrations and sparks set off when Grant and Russell, fully clothed and tightly buttoned up, engage in one of their duels of wit around a mouldy office desk.

An Unmarried Woman is a film geared to problems rather than passions and we in the audience remain as objective as we would be in face of any other problem-juggling apparatus. And this despite the fact that there is a fair amount of heaving and ho-ing to cue us into the film's intended stronger moments. The ultra-narcissistic husband sobs in announcing his leaving with a newfound love; the wife vomits on hearing the news; the painter throws things around to show how engagingly a fellow he can be. But given the feebleness of the emotional currents leading up to and charging the main eruptive events, the main moments themselves tend to fizzle out. They seem examples calculatedly borrowed from a case book, a part and parcel of the film's over-all documentary tone and emphasis. They do not affect us with the surprise and wonder of art.

It certainly comes as no surprise to learn, as we behold her and her companion at a studio party, that the psychotherapist who had thoughtfully advised Clayburgh on overcoming guilt feelings is herself - aha! - a Lesbian. This is not only too pat; it is a frivolous caricature of a sort that is inspired by the most bromidic of anit-feminist myths.

Various facets of the film, including the treatment of the heroine, strike the viewer as condescending rather than sympathetic or perceptive. The film's last shot, indeed, which aims for the sort of open ending we found in screwball comedy, is a shot that boomerangs with more ironic effect than the director may have intended. As Alan Bates waves goodbye, jauntily riding off to Vermont, we see our heroine on a busy street corner, left holding his canvass.

Granted that the film offers some interest and fun as a mild exercise in depicting current doings and dilemmas on the urban, white-collar scene, it is surely no match for what Hollywood's old masters could do in this line. And perhaps a clue to its lukewarm effect is offered in a remark of Jack Richardson's. Writing on Brecht in *Commentary* (December, 1976), Richardson notes how the dramatist often went against the grain of his theories and calculations to "...create an aspect of human nature rather than an accident of economic theory...In so doing, he produced an image of life...laughably human."

Such images of life abound in the screwball comedies, to afford us the pleasures of he laughably human. But then, in making *His Girl Friday*, Hawks was thinking of people not of 'feminism', a word that only later would enter the realm of discourse to help us, among other things, to catch up to Hawks. Although the makers of *An Unmarried Woman* have obviously heard the word, they have a way to go in fuller understanding of its message; which is why their film remains behind the times.

THE URBAN REBEL:
A COMPARISON OF SATURDAY NIGHT FEVER, WEST SIDE STORY AND REBEL WITHOUT A CAUSE.

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Of all the significant American films made during the last year, *Saturday Night Fever* may prove to be the one true "sleeper" of current crop-not only because it launches a new star, John Travolta, and proves popular at the box-office (and on the music charts), but also because it represents the first clear picture of the urban rebel, circa 1970's. Thus, *Saturday Night Fever* shares characteristics with two other films which stand today as prime examples of a particular time and place in the evolution of the American city youth: *Rebel Without A Cause*(1955) and *West Side Story*(1961).

The integrated use of dance and music in *Saturday Night Fever* and *West Side Story* is the most apparent similarity-namely their literal and figurative functioning as: catharsis; expressions of repressed emotions, self-identity, solidarity, and territorality; ritual; and ethnicity.Other similarities exist between the three films: (1) the importance of the "gang" as surrogate family; (2) alienation from the nuclear family; (3) idealized projection of love and morality; (4) violence as rite of passage; (5) the relationship of the City to the characters' fight for survival; and (6) the options available to the protagonists as they struggle for manhood.

The utilization of dance and music in *Saturday Night Fever* and *West Side Story* represents one of the most potent similarities between the two works. Not only are both elements integrated into the narrative structure of the films themselves, but they also become metaphorical expressions of the characters and themes. The opening scenes of John Travolta as he struts down the Brooklyn streets to "Staying Alive" and of the Jets and Sharks as they bombard the West Side with song and dance both establish the personna of the individuals and their relationship to the City. Clearly, the men own the street; they are at home on their turf; self-identity comes from their ability to move with ease and freedom through the urban millieu. In their movement through the territory, Travolta and, in particular George Chakiris, manifest common body postures and gestures. They both lean and give

the appearance of "hanging loose" while combining power and strength. They also seem to glide effortlessly through the streets, and at the same time, walk firmly rooted to the ground.

The opening scenes further establish the characters' basic concerns. Travolta cares about balling girls, looking his best, and making a few dollars on the side as a paint salesman. The rival gangs, as embodied by Chakiris and Russ Tamblyn, care about protecting their territory, and ultimately, themselves. These concerns lead to a similar life style dictated by class and ethnic background. The protagonists live at home, toil at a menial job (although we never see any of the gang actually working in *West Side Story* except Richard Beymer), hang out with their buddies, and look forward to the Saturday Night Dance.

The Saturday Night "dance" at the disco 2001 in *Fever* and at the school gym in *Story* becomes another metaphor of disdain which all the characters sense about their wasted, entrapping, and pre-determined lives. The "dance" represents, then, a place where they can release feelings of frustration, where they can *be* what they wish to be, and where they can obtain a sense of self-worth based on what they can *do*, not on what they *are*.

The "dance" also functions on other levels. It is the place where ethnic solidarity among "gang" members is enhanced. This solidarity serves as a buffer, in fact, for the growing allienation between opposing forces. Allienation is reinforced by means of a figurative dance competition between the White and Puerto Rican gangs in *Story* and a actual disco contest pitting Italian Travolta against a Puerto Rican couple. The Saturday night "dance" is also the place where Travolta and Beymer see the object of their love for the first time- Karen Lynn Gorney and Natalie Wood. Each girl is dressed in white when she initially appears as an indication of the idealized image which she will come to represent, and both women dance an expressionistic mating ballet with Travolta and Beymer which breaks with the frenzy created by the previous scene.(This Dance comes much later in *Fever* while in *Story* it is carried out immediately after the lovers see each other).

Finally, the "dance" represents a Saturday night ritual, shared by all teenagers of all decades as a cultural and social heritage. It is an event which everyone does and everyone looks forward to. Thus, the "dance" in *Fever* and *Story* establishes the particular filmic characters as being part of a wider context in repeating the idea of continuity and continuation of an American tradition.

The presence of a gang in all three films is another similarity. As an American tradition, group membership represents the manifestation of teenage male friendship. But the gang, in an age of confusion and conflict, becomes more than "hanging out". It becomes a surrogate or extended family for the isolation one feels for one's real family. In *Rebel, Fever,* and *Story,* this isolation centers on the lack of communication and understanding between family members concerning

the aspirations of the protagonists. In a gang, therefore, one could find acceptance without judgement and compassion without question.

In a city setting, the gang may also become a matter of survival. It acts as a buffer against authority (exemplified by the police in *Story*, where the gang represents safety in numbers) or against other people who threaten one's physical being (as in *Fever* when Puerto Ricans beat up one of the gang). Members owe allegiance only to each other. They share loose women (Annette in *Fever*), lasting secrets, and life philosophies. The group also protects each other against all odds. Thus the gang in Rebel goes afer James Dean when Buzz dies in a "chickie run", the Jets seek out Beymer before a Puerto Rican boy can shoot him, and Travolta and friends search for their buddy's assailants.

One character serves as chief protector of the gang: Allen as Buzz, then Dean as protector of Wood and Mineo in *Rebel;* Beymer in *Story;* and Travolta in *Fever.* It is to them that members look for leadership, decision-making, and advice. These leaders also serve as brothers and/or father figures. Beymer is a brother to Riff in *Story* and Travolta represents a similar image to Bobby in *Fever.* Although it exists outside the traditional "gang" concept, the most obvious example of a surrogate parent-child relationship appears between Dean and Sal Mineo, as Plato, in *Rebel.* Here Dean can be the kind of person that he wishes his own father could be reponsible, loving and trusting.

Ironically, in their attempts to serve as surrogate figures, both Travolta and Dean seem to be responsible for the death of their friends. When Bobby seeks advice about his pregnant girl friend, Travolta forgets to call him back. Bobby falls to his death soon after from the Verranzo Bridge. Plato is also abandoned by Dean and Natalie Wood as they wander off to pursue a private moment- an act which leaves Plato vulnerable to the irrational actions which destroy him. As a substitute brother, Beymer also, ultimately, abandons Riff when he refuses to fight with weapons in a rumble between the rival gangs. Riff is killed by Chakiris in the process.

Within the nuclear family concept, both Dean and Travolta's own father and mother fall short of supplying them with any kind of support. Both sets of parents seem firmly rooted in the traditional middle class view which society places on a son: allegiance to the family, respect for elders (both have grandmothers living with them), and betterment of one's self through hard work. Translated into practical terms, this means: "Don't become a bum", "Don't do what you may really want to do", "Don't make waves", and ultimately, "Don't dream for things you have no right to want".

Lack of support from the nuclear family may also stem from a preoccupation with economic security which prevades the protagonists' lives. Dean's family has had to move several times, thus making security uncertain. An inadequate amount of money also threatens the teenagers of *Story,* particulary the Puerto Ricans who must battle prejudice as well as poverty. Travolta, too, must cope with parental hostility based partly on the father's "out-of-work" status.

While Dean, Beymer, and Travolta may exemplify surrogate images, other people become their substitute parents as the characters look for acceptance and support outside the nuclear family. Thus, Ray the juvenille officer, represents a father figure for Dean as does Travolta's boss. Travolta, in fact, tells his own father that no one thinks he is any good except his own boss and kids at the disco club. Although we never see Beymer's family (he was raised by Riff's parents), Doc as owner of the corner drug store, functions similarly.

The characters' surrogate fathers do not abandon them as they themselves have done. Travolta's boss gives him his job back, while at the same time assuring him of a life-long job at the paint store. Doc also comes through by supplying money for Beymer's escape with Natalie Wood. Ray directs police action in an effort to help Dean at the end of *Rebel*. While there are other factors which contribute to the protagonists' self-acceptance, the sustaining support offered by he surrogate father figures is an important motivating element in this self-acceptance.

The characters' relationship with the nuclear family extends to their concept of women. Of everyone in his family, Travolta seems closest to his younger sister where a genuine affection exists between them. Chakiris treats sister Natalie Wood in *Story* with similar affection, combined with a protective attitude. This tendency to place women on a pedestal in an idealizing fashion may be traced to the mens' Catholic upbringing in *Fever* and *Story*, but it extends to Dean's image of Natalie Wood as well when he reaches out to her in a protective gesture after Buzz is killed. Idealization of the female is most apparent with the previously described appearance of Gorney and Wood at the Saturday night dance.[1] Although these figures represent more independent, aggressive and tough individuals then the innocent, vulnerable and frail Wood in *Story*, they are all idealized, nonetheless, for qualities that the male characters wish they themselves possessed.

Idealization is also enchanced because the women are all unobtainable in the eyes of the men. This unobtainability in *Fever* and *Rebel* is based on the difference in social class which the females see as a prime operating principle in their initial reaction the characters. Gorney is a somewhat brash individual who thumbs her nose at Travolta while telling him, "You're a nobody, going no place". Wood communicates a similar disdain for Dean's image of a naive loner attempting to become part of the gang. She refuses his offer for a ride on the first day of school and joins her friends in mocking him. Although Wood in *Story* does not put herself "above" Beymer, class distinction based on ethnic differences pervade, nonetheless, to initially keep the lovers apart.

As a good example of the male-female relationship, 1970's style, *Fever* maintains an "open-ending" while the other two films do not. In *Rebel* and *Story* the love between the man and woman has been solidified, even to death. Wood and Dean cling to one another in the aftermath of tragedy in *Rebel* as Wood clings to Beymer's jacket at the

close in *Story*. In *Fever*, however, Travolta and Gorney may be together in the last scene, but their future as lovers is uncertain. *Fever* also represents a departure from the traditional male-female relationship in a second way. It is Gorney, the woman, who encourages Travolta to seek a new life in Manhattan; she is clearly one of the catalysts which drives him to make a decision about his future acts. In this example of role reversal, Gorney becomes Travolta's teacher and mentor, whereas in *Rebel* and *Story*, Wood plays no substantial part in the self-identity process of the male character. While Wood in *Rebel* first appears at the police station in red to symbolize torment and confusion, she wears soft pinks and blues throughout the rest of the film.

The struggle for self-identity operates in a similar way for the protagonists in all three films, although when the characters are first introduced, this likeness extends most to Travolta and Beymer. We initally see the two at work in a familiar millieu-Travolta is on his way back from purchasing paint for a customer and Beymer is lifting heavy cases of soda. The low angle on Travolta as he travels through the streets lends a powerful thrust to his image. Likewise, Beymer, through the physical movements of his lifting, communicates a potent personae. Dean, on the other hand, is pictured in the first shot of the film on the ground, sprawled in a drunken stuppor. It is an image of impotence which gives rise, a few minutes later, to latent power as he pounds a desk in the policeman's office. This ability of Dean to convey vulnerability, weakness, and tenderness manifested in his relationship with Mineo and Wood, combines with the quality of strength as he faces the gang in a "chickie run" to make him an androgynous character. Beymer and Travolta also communicate similar androgynous traits. From their initial expressions of power, which are continued in revengeful yet brave deeds as Beymer kills Charkiris and Travolta beats up a Puerto Rican gang, they both maintain boyish, vulnerable, and idealistic characteristics.

The quality of idealism shared by all the protagonists remains their one constant attitude despite some difficult trials. And is this idealism which serves as a basis for their moral decisions, and thus for their concept of self. Dean decides to turn himself in for the accidential death of Buzz despite parental warnings as he also decides to help Mineo, trapped in a decaying mansion by the police. He believes in the fairness of justice and in the idea that "we are all our brother's keepers." Travolta opts to give his first-place prize money earned at a disco contest to the Puerto Rican couple who really deserved it. He says to his friends, "You know who should have won, you phoney bastards. Good is good. They deserve it". In this one act, Travolta rejects the traditional philosophy of survival he has grown up with- that "Everybody dumps on everybody else" - as Dean rejects his same middle class values which stress protection of one's self above all else. Beymer also decides to stand with Riff at a rumble beause of the idealistic idea that he owes it to Riff and the gangs to try and make

peace between th m. In this way, he not only again illustrates the philosophy that he is his brother's keeper, but also that survival is not a matter of mere self-protection, but of living together in harmony.

Another factor helps guide the characters' self-identity process and it is this element which allows Dean, Beymer and Travolta to finally enter adulthood. Thus, violence and sacrificial death of a good friend becomes a rite of passage. In *Rebel* it is Plato who is killed by the police; in *Story* Riff is murdered by Chakiris; and in *Fever* Bobby falls to his death from the Verrazano Bridge. In each case, it is a senseless death as it is also an accidential one: The police shoot Plato only when they imagine he is going to fire at them; Riff actually runs or is pushed into Chakiris' knife; and Bobby wants attention by pretending to jump from the bridge.

The idea of sacrificial death seems apparent when viewed from a liberal moralistic standpoint. It is not Plato, Riff or Bobby's fault that they are misunderstood and abandoned by family and authority alike. In Plato and Riff's cases, lack of care from their parents and police contribute to their predicament and label as "trouble-makers". To much money for Plato and not enough for Riff also add to their inability to become worthy citizens according to society's view. In Bobby's case adhearence to rigid religious (Catholic) and family standards forces him into facing an unwanted marriage. The message is clear: society is responsible for the creation of these misfits and society now has to get rid of them.

The site of each death functions on a similar level in all three films. The decaying mansion in *Rebel* and the Verrazano Bridge in *Fever* both represent a contradictory symbol. They not only serve as a place of death but also as a place of dreams for the protagonists. Plato sees the estate as a secret hideaway but it is Dean and Wood who play house in it. Travolta shares a similar special moment with Gorney at a park overlooking the Bridge, as he tells her that he often comes to think and dream. He also plays a game of sorts when he quizzes her about the Bridge's physical properties. In both instances, the mansion and the Bridge are places where the child in Dean and Travolta is allowed to surface. After death, it is this same child who walks away from these sites as an adult.

Although the area of Riff's death in *Story* occurs under the highway, it is Beymer's death in the playground which can also be related to the happenings at the mansion and bridge. Thus, Beymer's death becomes a rite of passage for the remaining rival gang members. The playground as an ironic symbol is, at once, a place of games and dreams for children and a place of death and dispair for the teenagers who leave it a little wiser than before.

The manner of death is also similar in all three cases-taking place amidst a gang activity. In *Rebel*, the gang (now composed of Mineo, Dean and Wood) are endeavoring to present a united front against the police. In *Story* the participants are engaged in a fight. In *Fever*, the

buddies are horsing around on the Bridge. The deaths that occur, then, are not solitary, lonely events. They take place for the victims among the only family they know.

The place of the urban environment in the characters' struggle for manhood illustrates another similarity operating in the films. As a representation of society in America at its most claustrophobic and impersonal self, both Los Angeles and New York reflect barriers to this stuggle in the limitations which they impose. While the former city does not create the geographic claustrophobia of Manhattan, the teenagers' world of *Rebel* exemplifies closure, nonetheless, in physical terms. Their territory extends only as far as the middle class neighborhood where Dean and Wood live to the nearby school and police station. It includes the Mulholland Drive area (site of the Planetarium and the mansion) which Plato frequents quite often. Although the "chickie run", with its surrounding cliffs and water, is not in close physical proximity to the other parts of this world, it still represents a portion of the characters' extended environment while serving as a primary source of diversion. In addition, the inhabitants of *Rebel* must travel by car in order to get from place to place in their world, thus the means of mobility centers on an impersonal and materialistic mechanism symbolizing L.A.

A different symbol is used to represent the impersonality of New York in *Story* and *Fever*. - that of the overpowering skyscrapers which dominate the millieu and the people who live there. When Travolta and Gorney travel across the Bridge to Manhattan on her moving day, a low angle of the tall buildings reinforces the vulnerability of the pair at the moment. In the same manner, the opening montage in *Story* focuses on an unpeopled and sterile New York from the air-shots of the skyscrapers, and crowded buildings dominate. As the camera moves closer to the earth, the clutter makes way for claustrophobia as the dwellings converge to create closure around the Jet gang in the playground. Claustrophobia continues as the Jets and Sharks dance their way through the narrow and dirty streets of the slum. Characters in *Story* literally never leave this place which primarily evolves around the drugstore, playground and tenament houses. Enclosure prevails at every turn as make-shift meeting places for love and war are carved out of necessity and poverty in dark back-alleys, on high roof-tops, and under huge highways.

Enclosure in *Fever* is also mainifested, although Travolta's world is more like the middle class setting established in *Rebel*. But he too feels figuratively trapped by the banality of existence as he goes from home to work to the disco club 2001. For Travolta, survival in the streets may not operate to the same degree as it does for the Jets and Sharks, but lack of stimulation and challenge in Brooklyn creates the same idea of status present in *Story*.

As a product of the 1970's, *Fever* represents possible escape from

enclosure. Although Dean, the remaining gang members, and Travolta all pass from childhood to adulthood by the end of the films with stronger feelings of self-identity and worth, it is only Travolta who can truly exercise his new found freedom which current society now affords. Both Dean and the gang members are still victims of the class and/ or ethnic structures present in the 195O's and 6O's. Dean will continue to live with his parents and adapt their middle-class values of allegiance to the family. The gang will remain in the slums - lack of educational and economic opportunities pre-determined by their ethnic background will keep them there. Only Travolta seems capable of starting a new life in Manhattan when he rejects both the class and ethnic ties which bind him to Brooklyn.

1 While Wood in Rebel first appears at the police station in red to symbolize torment and confusion she wears soft pinks and blues throughout the rest of the film.

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FLORIDA v. ZAMORA:

IMPLICATIONS FOR TELEVISION PROGRAMMING

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Whether television could be held culpable in a real-life murder was the popular theme associated with the case of *State of Florida v. Ronney Albert Zamora.*[1] Contrary to the impression that much reportage conveyed, television was not on trial in the *Zamora* case. Even so, the broader issues surrounding television violence were indirectly given for the first time a forum in a court of law and ironically, were broadcast to local and national television audiences. This paper will examine *Zamora* relative to the television violence controversy and will explore the case's impact on television programming in general and on courtroom television in particular. The organization of this paper is as follows: introductory summary, background, the trial, the appeal, the attempt to disbar Ellis Rubin, the effect on commercial network programming, and implications for the future.

The sources of my data included court documents and recordsofficial transcripts and publications, personal correspondence, as well as material from such sources as *Broadcasting* and The *Washington Post.* The intent was to give the reader as up-to-date an account as possible based upon all sources available to me as of September 1, 1978.

INTRODUCTORY SUMMARY[2]

Florida v. Zamora is a murder case which involved a 15-year-old boy, Ronney A. Zamora, who was charged wih first degree murder in the June 4, 1977 fatal shooting of his 82-year-old neighbor, Mrs. Elinor Haggart.[3] At the time Ronney Zamora was a ninth-grader at Nautilus Junior High School in Miami Beach, Floida. He shot Mrs. Hagart with her own .32-caliber revolver when she caught him burgarlizing her home. Young Zamora was tried as an adult.

What distinguishes this from other murder cases is the novelty of the defense. Zamora's defense was temporary insanity attributed to "prolonged, intense, involuntary, subliminal television intoxication." According to Ellis Rubin, Zamora's defense attorney, "the plea is based on the legal concept that a person who is drugged or becomes intoxicated without his knowledge is not responsible for his actions while under the influence."[4] The defense claimed that excessive viewing of television violence by Ronney Zamora led to his temporary insanity, i.e., his inability to distinguish between right from wrong at the precise moment the crime was committed.

his knowledge is not reponsible for his actions while under the influence."[4] The defense claimed that excessive viewing of television violence by Ronney Zamora led to his temporary insanity, i.e., his inability to distinguish between right from wrong at the precise moment the crime was committed.

After deliberating for two hours on October 6, 1977 (the trial began September 26, 1977), a jury of nine men and three women rejected Zamora's contention that he had been driven temporarily insane by television violence. The jury returned guilty verdicts on all four counts in the original indictment: I. first degree murder, II. burglary of a dwelling, III. possession of a firearm while committing a felony, and IV. robbery. Because of Ronney Zamora's age the prosecution did not ask for the death penalty. Instead, Zamora was sentenced to life in prison. Under Florida law[5] he will not be eligible for parole for at least twenty-five years. The defense appealed and lost but is currently engaged in a civil suit against the three major commercial television networks.[6]

Background

Several factors coalesce in *Zamora* which make the case a land mark in mass communication law as well as in television history. These issues are: 1) media violence, 2) courtroom television, 3) Florida's pilot program, and 4) the novelty of Zamora's defense.

Violence in the media is one of the most widely studied areas in mass communication research. Despite the plethora of studies witnessed since the 1950's the controversy continues as to what specific effects, if any, the portrayal of violence on television has on pre-schoolers, adolescents, teen-agers, or even adults. For Zamora's case in a court of law the proffer was made to show what effects television violence has on a "sociopathic personality."[7]

The issues surrounding television violence have not been settled to everyone's satisfaction regardless of whether one is discussing Bandura's social learning theory, the disinhibition concept of Berkowitz, Tannenbaum's arousal theory, the catharsis theory as postulated by Feshbach, or any other theoretical research paradigm.[8] Perhaps the nature of the research on violence precludes universal agreement on the precise role of television as a contributing factor. Nevertheless television violence continues to cause increasing concern among parents, media critics, religious organizations, lobbyists, etc., resulting in serious investigations by mass media scholars, public interest organizations, the radio-television-film industries themselves, and t he government.[9] That the matter remains controversial is clearly evidenced by the many dissenting views contained in the recent House Communications Subcommittee report, Violence on Television.[10]

A second factor is the increasing interest on the part of both the lay public and the judicial system in the televising and videotaping of

courtroom trials. Many states have permitted such television coverage and the trend is clear.[11] Despite a temporary setback by the American Bar Association,[12] most observers believe that television in the courtroom is an idea whose time has come. Indeed, some new courts are being designed and constructed with the placement of television cameras in mind.

A third factor which coalesced with the *Zamora* case is the one-year pilot program which authorized coverage of judicial proceedings in Florida's courts by the electronic media and still photographers.[13] This pilot program facilitated the televising and videotaping of Ronney Zamora's trial. Under this program Florida became the only state that allowed such electronic coverage without the permission or consent of trial participants or the judge.

A fourth factor is the novel defense put at trial. Because of this defense many were quick to suggest that not only was Ronney Zamora on trial but so was television. Headlines conveyed the sensationalism of the day.[14] Such inferences of what Zamora was all about are clearly erroneous as will be noted later in the discussion of Zamora's appeal. Television was not on trial in courtroom 4-1 in the Hall of Justice in Dade County, Florida. Rooney Albert Zamora was on trial for first degree murder.

The Trial

The trial of Ronney Zamora began on September 26, 1977 and climaxed with the jury's guilty verdict on October 6, 1977. Sentencing was handed down on November 7, 1977. The presiding judge was the Honorable Paul Baker, 11th Judicial Circuit of the State of Florida. The prosecutor was Thomas Headley who was assisted by Richard Katz both of whom were Assistant State Attorneys for the State of Florida.

The *Zamora* trial was telecast for nine evenings by WPBT-TV(PBS), channel 2 in Miami, Florida. The coverage cost the station about $3,000 a day and was estimated to have been seen by more than 80,000 Miami households each night.[15]

Nearly forty hours of tape had been collected by the time the nine-day *Zamora* trial was over. From this a two-hour edited summary was prepared by WPBT-TV for distribution over the Public Broadcasting Service. This two-hour cinema verite documentary, *TV ON TRIAL*, was aired on PBS from 9-11 p.m. (E.S.T.) on Tuesday, May 23, 1978. The purpose of the program was to examine the unusual nature of the Zamora case as well as to present some of the pros and cons of the use of television in courtrooms.[16] A transcript of *TV ON TRIAL* is available for purchase.[17]

Dr. Walter Reid testified at trial that Rooney Zamora "is a fairly classical sociopathic personality..." Sociopathic personality is a psychiatric term that denotes a person who is emotionally cool,

calloused, has little in the way of remorse or guilt, has little or no ability to feel for other people, and otherwise presents pretty much as a normal person."[18] One of the criteria of a sociopath is that a sociopath knows right from wrong, but doesn't care.[19]

Throughout the trial the defense admitted that Ronney Zamora shot and killed Mrs. Haggart. What Ellis Rubin attempted to explain was "why Zamora committed the crime. Rubin tried to show that a steady diet of television violence led to Zamora's becoming a sociopath, that all sociopaths "copy and imitate what they see on television." and that when Ronney Zamora pulled the trigger he "could not distinguish if he was in a television play, acting it out, or whether it was cold-blooded, premediated murder.[20]

Although expert testimony at trial showed Ronney Zamora to be a sociopathic personality, the critical question on which this case turned was whether he was legally insane at the precise moment the crime was committed.

Only one witness testified in support of defense counsel's claim concerning Zamora's temporary insanity. Psychiatrist Dr. Michael Gilbert testified that up to the time Ronney Zamora fired the gun that Zamora "knew the difference between right and wrong. At the time of the shooting, he did not know what he was doing. Therefore, he could not know the nature and consequence of his act, since he did not know what he was doing, and therefore, he can't-couldn't judge that what he was doing was wrong.[21] On cross examination Prosecutor Thomas Headley asked: "Now, when it comes right to the moment that the gun is shot, is it your opinion that the defendant went from sane to insane and back to sane in a matter of two or three seconds?" Dr. Gilbert replied, "That is correct."[22]

The die was cast. Could the jury be pursuaded to accept a few seconds worth of insanity and thus acquit the defendant? The jury responded in the negative and found Ronney Zamora guilty on all four counts.

The adjudication having been entered, Ronney Zamora was then sentenced on November 7, 1977 to the following terms: as to count I (first degree murder), life imprisonment without parole for a minimum of twenty-five years pursuant to Section 775.082(1), Florida Statutes (1977); as to count II (burglary of a dwelling), twenty-five years imprisonment as to count III (possession of a firearm while committing a felony), three years imprisonment; and as to count IV (robbery), twenty-five years imprisonment. All sentences were to run concurrently.[23]

The Appeal

Oral arguments in the Zamora appeal were held on May 19, 1978 before the District Court of Appeals for the Third District of Florida.[24] The District Court filed its opinion on July 20, 1978.[25]

The defense raisd the following seven points on appeal.[26]

1. WHETHER THE TRIAL COURT PROPERLY EXCLUDED ALL EVIDENCE RELATING TO INSANITY BASED UPON IRRESISTIBLE IMPULSE AND DIMINISHED CAPACITY?
2. WHETHER QUESTIONS PERTAINING TO THE POTENTIAL JUROR'S VIEWING HABITS OF TELEVISON WERE PROPERLY LIMITED ON VOIR DIRE?
3. WHETHER THE TRIAL COURT PROPERLY INSTRUCTED THE JURY AS TO THE APPLICABILITY OF THE DEFENSE OF LEGAL INSANITY?
4. WHETHER THE TRIAL COURT PROPERLY DENIED THE DEFENDANT'S EXTRAORDINARY AMENDED MOTION FOR NEW TRIAL?
5. WHETHER THE PHOTOGRAPHS OF THE DECEASED WERE PROPERLY ADMITTED INTO EVIDENCE?
6. WHETHER THE LIMITATIONS ON CROSS-EXAMINATION CONSTITUTE HARMLESS ERROR?
7. WHETHER THE TRIAL COURT DID NOT EX PARTE RESPOND TO A REQUEST MADE BY THE JURY?

Because of the nature and significance of the first point, the District Court's opinion in response to point 1 is hereby reprinted in full.[27]

At trial, Zamora's insanity defense was based upon "involuntary subliminal television intoxication." On appeal, *Zamora* contends that certain rulings of the trial judge limiting the scope of defense counsel's inquiry into the area of television's effect upon sociopathic children effectively frustrated his insanity defense. In particular, appellant argues that the trial judge committed reversible error by failing to allow psychologist Dr. Margaret Hanratty Thomas to testify at trial on the effect of television violence upon adolescent viewers. We are not of the opinion that the court erred in granting the state's motion in limine thereby limiting inquiry into television and its effects on children.

In Florida, the test for insanity is the so-called M'Naghten Rule or "right and wrong" test. That is, a person is legally insane when he is precluded by mental disease from distinguishing between right and wrong at the time of the act. *Wheeler v. State*, 344 So. 2d 244 (Fla. 1977); *Perry v. State*, 143 So. 2d 528 (Fla. 2d DCA 1962). Irrestible impulse is not recognized as a defense in Florida. *Wheeler v. State*, supra., *Witt v. State*, 342 So. 2d 497 (Fla. 1977). Likewise, diminished capacity is not recognized as a defense, unless a defendant's capacity is so diminished that he cannot distinguish right from wrong pursuant to the M'Naghten Rule. *Bradshaw v. State*, 353 So. 2d 188 (Fla. 2d DCA 1977); *Camp v. State*, 149 So. 2d 367 (Fla. 2d DCA 1963).

Based upon the law of insanity, as established in this state, the trial judge correctly limited the evidence of insanity to the M'Naghten Standard. *Sub judice*, as brought out through proffer, Dr. Thomas' testimony would have been directed to the effect of television on adolescents, generally. She would have been, however, unable to testify that watching violent television programs to excess affects an individual to the extent that said individual would not be able to distinguish between right and wrong under the M'Naghten test. Her testimony, therefore, would not have been relevant to the proceedings.

A party is entitled to present evidence upon the facts that are relevant to his theory of the case, so long as that theory has support in the law. *Steiger v. Massachusetts Casualty Insurance Co.*, 273 So. 2d 4 (Fla. 3d DCA 1973). Relevancy describes evidence that has a legitimate tendency to prove or disprove a given proposition that is material to the case. *Zabner v. Howard Johnson's, Inc.* of Florida, 227 So. 2d 543 (Fla. 4th DCA 1969). The only theory of the case that had support in the law was insanity, based upon the M'Naghten standard. Testimony that would not have tended to prove of disprove insanity was properly excluded, as being irrelevant. *Dixie-Bell Oil Company, Inc. v. Gold*, 275 So. 2d 19 (Fla. 3d DCA 1973). As Dr. Thomas' testimony was not relevant as to the issue of insanity, it was properly excluded.

Appellant has additionally argued that he was unduly limited in examining those experts who were permitted to testify at trial. The record, however, does not support this allegation of undue limitation. In those instances where defense counsel was limited in his questioning, such limitation was imposed on the basis of relevancy in light of the M'Naghten standard.

Accordingly, appellant's point I is rejected.

The other six points were also rejected. The District Court concluded with this admonishment.[28]

In conclusion, we have carefully reviewed all of appellant's points on appeal in light of the record, briefs submitted, oral arguments of counsel and controlling principles of law. It is our opinion that no reversible error has been shown and that Ronney Zamora's conviction and sentences must be affirmed. It has often been stated that a defendant is not entitled to a perfect trial, but is entitled to a fair trial. We are convinced that Zamora did receive a fair trial.

One final comment need be made. In the concluding pages of defense counsel's lengthy brief the following language appears: "In the case at bar, television was on trial... and the trial was on television." Such was simply not the case. While the proceedings

were televised (and much covered by the media, generally), television was not on trial; Ronney Zamora was on trial. Zamora was on trial for the senseless slaying of an elderly woman. His defense was not guilty by reason of insanity induced by "involuntary subliminal television intoxication" and a jury, failing to accept that defense, found Zamora guilty on all charges. The proceedings below in no way represented a forum for the discussion of the relative pros and cons of the television media. Stated simply, this was a murder trial, and it is to the trial judge's credit that he confined the testimony and evidence to the relevant issues. Anyone failing to comprehend the true nature and purpose of these proceedings suffers from a total misconception of our criminal justice system.

The Attempt to Disbar Ellis Rubin

In addition to the mistaken inferences that television was on trial in *Zamora*, another false impression seemed to grow out of the case. This concerned the efforts on the part of The Florida Bar to take disciplinary action against Ellis Rubin.[29] Apparently some media reportage seemed to imply that attempts were made to disbar Ellis Rubin as a direct result of his conduct connected with the *Zamora* trial. For example, the following short notice appeared in *Broadcasting*. [30]

> Florida Bar Association has asked state supreme court to disbar attorney, Ellis Rubin, who defended 15-year-old Ronney Zamora at convicted murderer's "television intoxication" trial in Miami [*BROADCASTING, Oct. 10*]. Bar association says Mr. Rubin had "neglected legal matters" in five separate cases. Bar's board instructed its general counsel to petition court within 30 days to disbar Mr. Rubin.

It should be pointed out, however, that "none of the charges against Mr. Rubin involved the Zamora case."[31] The Supreme Court of Florida dismissed the case, The Florida Bar v. Ellis Rubin, on July 27, 1978.

The Effect on Commercial Network Programming

The presidents of the three major commercial networks were contacted more than eight months following the *Zamora* trial verdict to determine what effect the case is having on television programming at each respective network.[32] The responses were quite revealing though admittedly not surprising.

As to what impact *Zamora* is having on television programming at CBS, Vice President Gene P. Mater replied: "The answer, in a word, is 'none.' The specious nature of the defense arguments, unsupported by any scientific evidence, was reflected in the verdict."[33]

Senior Counsel Ellen Shaw Agress at NBC responded in this manner:

> Mr. Silverman has asked me to respond to your letter of June 12, 1978, as I am one of the attorneys working on Zamora's pending case against the three networks...
>
> The Zamora murder case has had no effect on NBC's programming. We have always been sensitive to public concern with the depiction of excessive or gratuitous violence in television programming...
>
> The Zamora case has not caused NBC to change these standards /NBC's Broadcast Standards/ or to alter the development, production or standard review of our television programming.[34]

Vice President Alfred R. Schneider at ABC did not answer the question in his letter[35] but did enclose copies of two of his speeches[36] and a copy of *Broadcast Standards Editing* by Melvin S. Heller, M.D.[37] The 102-page Heller manual for editors of television programming was "published by ABC and is being given wide distribution in the hope that it will provide new insights into the evaluation of televised violence and TV's effect on children."[38]

Implication for the Future

Zamora will probably have a negligible impact on the content of television programming per se, i.e., violence on network television will probably neither increase nor decrease as a direct result of the case. However, television might still be affected indirectly by the precedent established in *Zamora*.

One possibility is that networks might attempt to reduce the criticism about television violence by a more liberal use of advisories broadcast prior to potentially harmful program. It is still open to debate whether such advisories merely act as a hype for the program or if they have the desired effect.

Another possible effect is the proliferation of lawsuits against the networks as being culpable for real-life crimes. Despite the admonition of the Appellate Court cited above, *Zamora* might be the catalyst spawning a wave of attempts to indict television as the culprit in inciting people to acts of violence. Although it predates *Zamora*, the "Born Innocent" case is illustrative of the type of suit that might be inspired by *Zamora*.[39]

Hopefully, the most significant outcome of Zamora will be that states will be more willing to permit cameras in their courts. Many observers are looking to Zamora with considerable optimism regarding future use of television cameras in the nation's courtrooms. One such person is the Honorable Paul Baker who presided over the Zamora trial. In his Report to the Supreme Court of Florida, Judge Baker writes: "The conduct of the Zamora trial in this pilot experiment must be viewed as a

success. This was due to the excellent cooperation of all press personnel involved." [40]

Recently the Conference of States Chief Justices "recommend by a 49-to-1 vote (South Carolina's chief justice dissenting) that the nation's courtrooms, ferage with cameras and microphones." [41] The National Association of Broadcasters "has announced a project designed to familiarize judges and members of the legal profession with the capabilities of broadcast production equipment to cover courtroom proceedings unobtrusively and without disruption." [42]

In conclusion, it does appear that Zamora will have a demonstrable impact upon future use of television cameras in the courts, but no immediate impact upon the depiction of violence in network television programming.

Reference

1 *State of Florida v. Ronney Albert Zamora*, defendant, Case No. 77-251523 A, in the Circuit Court of the Eleventh Judicial Circuit of Florida, in and for Dade County, Spring Term, 1977.

2 For more details of the events surrounding the *Zamora* case the interesed reader may wish to consult the following sources which provided the basis for the introductory summary. See *Broadcasting*, October 3, 1977, pp. 31-32; October 10, 1977, p. 32; *The Washington Post*, October 6, 1977, pp. C1, C3; October 8, 1977, p. A2; and *TV Guide*, January 14, 1978, pp. 6-11.

3 Darrell M. Agrellas was also named as a defendant in the original indictment, but since he wass separately tried his case will not be discussed here. On June 6, 1978 the notice of appeal was filed in *Darrell Agrella*. See Case No. 78-1266, District Court of Appeals for the Third District of Florida.

4 *Broadcasting*, October 3, 1977, p. 31.

5 Section 775.082(1), *Florida Statutes* (1977).

6 *Broadcasting*, August 7, 1978, pp. 54-55. See also *Broadcasting*, November 14, 1977, p. 40.

7 Transcript, *TV ON TRIAL*, PTV Publications, p. 25. For a copy of this transcript see reference 17.

8 For an explication of these and other theoretical research paradigms, see George A. Comstock, George Lindsey, and Marilyn Fisher, *Television and Human Behavior: The Research Horizon* (Santa Monica, California: The Rand Corporation, 1975).

9 For example, see Edith Efron's three-part series entitled "A Million Dollar Misunderstanding" in *TV Guide* beginning with the November 10 *Violence on Television, Report together with Additional, Dissenting, and Separate Views*, Subcommittee on Communications, Com-11, 1972 issue and continuing in the November 18 and 25, 1972 issues. See also "Sex and Violence: Hollywood Fights Back," *TV Guide*, August 27, 1977, pp. 4-18. For George Gerbner's latest violence index, see "Cultural Indicators: Violence Profile No. 9," *Journal of Communication*, Vol. 28, No. 3 (Summer 1978), pp. 176-207.

mittee on Interstate and Foreign Commerce, House of Representatives, 95th Congress, First Session, September 29, 1977.
11 *Broadcasting*, August 7, 1978, pp. 29, 31.
12 *Broadcasting*, August 14, 1978, pp. 31-33.
13 Petition of Post-Newsweek Stations, Florida, Inc., for Change in Code of Jufiled April 7, 1977), and 347 So.2d 404 (Order filed June 14, 1977). The one-year pilot program was not extended by the Supreme Court of Florida. See opinion in Case No. 46,835 filed May 11, 1978.
14 For example, "If the 15-Year-Old 'Kojak' Fan Is Found Innocent of Murder, Then Television Will Have Been Found Guilty," *The Washington Post*, October 6, 1977, p. C1; "TV Goes on Trial: In a Florida courtroom, an accused murder and television coverage were being judged," *TV Guide*, January 14, 1978, p. 6. Even the two-hour edited summary produced by WPBT-TV (Miami, Florida) and broadcast by PBS was titled *TV ON TRIAL*.
15 *The Washington Post*, October 6, 1977, p. C1.
16 *Broadcasting*, May 22, 1978, p. 73; *American Educator*, Vol. 2 No. 2 (Summer 1978), p. 32. For an interesting critique of *TV ON TRIAL* see the article by Tom Shales in *The Washington Post*, May 29, 1978, pp. B1, B11.
17 Send $3.00 to PTV Publications, P.O. Box 356, Kent, Ohio 44240.
18 Transcript, *TV ON TRIAL*, p. 20.
19 *Ibid.*, p. 21.
20 *Ibid.*, pp. 5, 25.
21 *Ibid.*, pp. 34-35.
22 *Ibid.*, p. 36.
23 Sentence in Case No. 77-25123-A, Circuit Court of the Eleventh Judicial Circuit of Florida, filed November 7, 1977. Ronney Zamora was given credit for the time he served in the Dade County Jail prior to sentencing (153 days).
24 Letter from Calvin L. Fox, Assistant Attorney General, Office of the Attorney General, State of Florida, July 2, 1978. In author's file.
25 *Ronney A. Zamora, Appellant, v. The State of Florida*, Appellee, Case No. 77-2566. Opinion of the District Court of Appeals for the Third District of Florida, filed July 20, 1978.
26 From the Brief of Appellee (The State of Florida), pp. 2-3. Appellee respectfully rephrased the defendant's points on apeal as stipulated in the Brief of Appellant (Ronney Zamora). See Opinion of the District Court of Appeals, pp. 2, 3, 5, 7, 8, and 10.
27 Opinion of the District Court of Appeals, pp. 2-3.
28 *Ibid.*, pp. 11-12.
29 *The Florida Bar*, Complainant, v. *Ellis Rubin*, Case Nos. 53,329 and 53,110. See opinion of the Supreme Court of Florida, filed July 27, 1978.
30 *Broadcasting*, December 12, 1977, p. 74.
31 Letter from James P. Holloway, Assistant Staff Counsel, The Florida Bar, August 1, 1978. In author's file.
32 Letters were sent on June 12, 1978 to the following: Gene F. Jankowski, President, CBS/Broadcast Group; Fred Silverman, President, NBC; and Elton H. Rule, President, ABC.
33 Letter from Gene P. Mater, Vice President and Assistant to the President, CBS/Broadcast Group, June 19, 1978. In author's file.

34 Letter from Ellen Shaw Agress, Senior Counsel, Law Department, NBC, June 30, 1978. In author's file.
35 Letter from Alfred R. Schneider, Vice President, ABC, June 21, 1978. In author's file.
36 Statement from Albion College, Albion, Michigan, April 1, 1978; Statement of the American Civil Liberties Union National Convocation on Broadcast Free Speech, "Violence in the Media," June 13, 1978.
37 Melvin S. Heller, M.D., *Broadcast Standards Editing* (American Broadcasting Companies, Inc., 1978).
38 *Broadcasting*, July 17, 1978, p. 38.
39 *Broadcasting*, January 30, 1978, p. 78; March 27, 1978, p. 36; August 7, 1978, pp. 31-32; August 14, 1978, pp. 30-31; *Time*, May 8, 1978, pp. 68-69; *The Washington Post*, April 24, 1978, p. A18; and August 3, 1978, p. A3.
Paul Baker, Judge, *Report To The Supreme Court of Florida*, re: Conduct of Audio-Visual Trial Coverage, Case No. 77-25123 A, *State of Florida v. Ronney A. Zamora*, 1978, pp. 17-18. The report dealt with 1) equipment and personnel, 2) sound and light criteria, 3) location of equipment and personnel, 4) movement during proceedings, 5) courtroom light sources, 6) conferences of counsel, 7) impermissible use of media material, 8) appellate review, and 9) evaluation of program.
41 *Broadcasting*, August 7, 1978, p. 29.
42 NAB *Highlights*, Vol. 4, No. 10 (March 13, 1978), p. 2.

Much of the material was collected while the author was Assistant Professor of Radio-TV-Film in the Department of Speech and Dramatic art at the University of Maryland. Dr. Sadowski is currently Assistant Producer for Public Affairs at KUHT-TV [PBS] in Houston, Texas.

AUDIENCE PRODUCTION FUNCTIONS: VIOLENCE AS A MAIN INGREDIENT

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INTRODUCTION

Recent interest by citizen groups, government agencies and committees of the Congress[1] in the content of the television programs has generated great concern within the broadcast industry. While the industry response is typically couched in the form of pleas for the preservation of First Amendment freedoms, the concerns of broadcasters are quite properly centered on the potential economic consequences of any substantial interference with proven technology.

Broadcasting in the U.S. is an industry like others which produces goods and services for sale in the marketplace. Like other producers, the broadcaster must be concerned with the technical and economic efficiency of the methods used to produce its product, and any government action which would restrict or restrain the use of that technology represents a serious threat. Since program content is the principal ingredient in the production of audiences for sale to advertisers, any restriction on content might affect the profitability of firms within the industry.

Violence is one aspect of television content which has been singled out for special attention in recent years. Like industrial chemicals which are believed to cause harm to the environment when they are used in the production of some valued product, excessive violence is seen to be polluting the social environment, and the general sentiment is that its use must be restricted. Currently, there is no reliable method for estimating the gains or losses in productivity that would accompany such an important change as the elimination of violence from television. This paper will discuss the potential of a production function approach as a method for estimating the impact of changes in the technology of audience production.

BACKGROUND

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The relationship between programming and broadcast profitability has long been a subject of regulatory interest. Broadcasters have argued that CATV systems would contribute to the demise of local broadcasting [illegible] the introduction of additional signals would "frac-

tionalize''the audience, reducing the revenue of the local stations. The arguments of the broadcasters were supported in appearances before the Federal Communications Commission (FCC) by theoretical economic models which sought to demonstrate the impact of one or more additional channels in a market.[2] On the other side of the economic issue, supporters of CATV development appealed to the FCC's expressed goal of increasing program diversity, by arguing that by offering additional television signals, CATV would increase the diversity available to the viewer.

Arguments about the impact of CATV on either broadcast revenue or consumer satisfaction have not been conclusive because of a failure on the part of the economists to come to terms with the measurement of diversity. Study after study sought to describe diversity in terms of variations in the mix of limited program types. Programs were either classed broadly as Movies, Sports, Entertainment, or Educational, or within the Entertainment category, into Adventure, Comedy, Variety, Westerns, Drama, etc. None of these classifications truly captured the variety in programming which actually guides the viewer in selecting one program or another.[3]

More restricted program choice models such as those of J.Rothenburg, P. Steiner and J. McGowan[4] are based on ideal types of programs which are supposed to cover the spectrum of choices available to television viewers.

Because of these arbitrary limitations on the diversity of choices actually facing the average viewer in these studies, B. Owen, J. Beebe and W. Manning (1974) concluded that:

> ''That total audience for network television at a given moment is evidently not much affected by program content or type within the range of variation with which we have experience (p. 95).''

Suggesting further that the network audiences are determined almost entirely by exogenous seasonal factors.

Edward Greensberg and Harold Bennett (1971) demonstrated that there were many program characteristics other than *type* which were important to viewers. By studying the audience shares for a large sample of televised films, they demonstrated first that *Film* could not be a single category if there was such great variance in the audience shares reported for these films. Further, they demonstrated that variables such as familiarity with the film were more important predictors of audience size than the categories of film type used by the industry. F. Zufryden (1976) identified several exogenous factors which might govern televison program selection, but he failed to consider either the characteristics of the station or the characteristics of the programs themselves.[5]

Efforts to determine consumer preferences in terms of the attributes of the products, rather than the product itself, have become familiar in the marketing literature following the publication of important works by Kelvin Lancaster (1966, 1977). Lancaster's work argued that an orange

is eaten, not because it is an orange, but because of its taste, texture, and nutritional value. He sought to describe the consumption technology in terms of the bundles of characteristics which could be provided by one or more product varieties. Extensions of the Lancasterian model include multi-attribute preference models and an attempt by Donald Lehmann (1971) to determine preferences for television programs in terms of attributes like Action, Humor and other qualities like being well-produced and directed.[6]

Byron Reeves and Bradley Greenberg (1977) sought to determine the content attributes used by young children in the selection of television programs, and the identification with certain characters in those programs. Reeves and Greenberg selected eight attributes for television characters, including funny, active and strong, and determined that only four dimensions were necessary to account for the variance in the preference of TV characters.

This multi-attribute approach represents a considerable advance over the gross categories used in earlier studies, but the absence of reliable data sources which describe programs in terms of such attributes has greatly reduced the amount of empirical research into the relations between television program attributes and viewer preference and choice.

PRODUCTION FUNCTIONS

G. David Hughes (1973) suggests that attribute models of consumer demand are the inverse of industrial production models. That is, the producer combines inputs in a certain ratio, which is fixed by the state of technology, and it yields a certain output of goods, the attributes of which are preferred by an aggregation of consumers.

If we consider that television uses program attributes as inputs in a certain ratio to produce a package attractive to an audience, the inverse of model has the audience members selecting certain combinations of program attributes in order to produce satisfaction from television watching. Thus the broadcaster's selection of programs of a certain type, with a certain combination of attributes, is the use of a production technology which can be described in functional form. The use of production functions is well developed in the field of micro-economics. The production function is defined as the

> "relationship between the quantities of various inputs used per period to time and the maximum quantity of the commodity that can be produced per period to time...the maximum output rate that can be achieved from any specified set of usage rates of inputs."[7]

With the production function, one is able to determine the marginal product of each input factor. These functions are estimated through statistical analysis of time series data concerning the amounts of particular inputs used at various times in the past, and the amount of output produced at the same time.

The use of he production function has been extended to analyses, in other fields where one is concerned with the technical and economic efficiency of a production process. In studies of educational effectiveness, the "educational production function" is used to represent the relationship between school resources and the background of the students on one hand, and a variety of educational outcomes, like test scores on the other.[8] Least square multiple regression is used to estimate coefficients for these inputs, and researchers have estimated the marginal product, or relative importance of teacher salary, books and school supplies, teacher verbal ability, percentage of white students, and other factors believed to affect some educational output.[9]

In the television case, when attempts to determine the program preferences of the audience are based on the attributes of the programs, we are in fact describing the technology of the broadcaster who is seeking to maximize the size of the audience. If sufficient data were available on a range of program attributes, and on the size of he audience those programs produced, it would be possible to estimate an audience production function, and the marginal product of each of the program attributes. Since program violence has been criticised at the same time that the industry notes its value as a producer of audiences,[10,11] any attempt to estimate an audience production function should include violence, "action," or its equivalent.

A preliminary study of the productivity of television violence was begun by the author of a Post-Doctoral Fellow at the Annenberg School of Communications at the University of Pennsylvania. The study was initiated originally as an attempt to evaluate the proposition that "there is violence on television becaue that is what the public wants." Discussion with George Gerbner, Klaus Krippendorff, R. L. Shayon and others on the faculty suggested an alternative formulation of the problem: "there is violence on television because the networks have determined that it is an efficient technique for the production of audiences." As we have discussed above, one is the inverse of the other, and both can be evaluated with the same data.

METHODS OF THE STUDY

The Cultural Indicators Project at the University of Pennsylvania has been studying trends in telecontent since 1967.[12] A staff of trained coders, working in pairs to improve reliability, describe each program along several content dimensions. Prior to 1975, samples were limited to a calandar week in each year. An analysis of the single week sample, when compared with a 365-day sample from the same year (1967-68), revealed no significant differences in the distribution of program types, or in measures of program tone. However, following 1975, the sampling period was increased to two weeks, one in the fall, and the other in the Spring.

For the purpose of this project, seven sample weeks, recorded between 1971 and 1976 were selected for analysis. Program descriptions, as produced by the Cultural Indicators Project were used as attributes, or production factors in the estimation of audience production functions. Most variables are in ordinal or interval form, with the exception of a single dummy variable, *Old*, which distinguishes between new programs, or returning series.

Three original and one computed measure of the amount and kind of violence were selected for each program in the sample:

1. *Seriousness of Violence* = an ordered list ranging from no violence, through real, serious violence (as to distinguish between this and comedic, humorous violence.)
2. *Significance of Violence* = an ordered list ranging from no violence, through violence which is seen as being a major outstanding feature of the climax.
3. *Number of Violent Acts* = a simple count of the number of violent actions occuring within a program, where violence is defined as "the overt expression of physical force against self or other, or compelling action against one's will on pain of being hurt or killed, or actually hurting or killing.
4. *Violence Rate* = calculated by dividing the number of violent acts by the number of program minutes to get an estimate of violent acts per minute.

OUTPUT MEASURES

Several estimates of audience size were recorded for each program as repored by the A.C. Neilsen Company in their National Television Index.

1. *Audience 1* = the percent of television households watching the program during the average minute, of the first quarterhour of each half hour the program is aired.
2. *Audience 2* = the percent of television households watching the program during the average minute of the second quarterhour.
3. *Share* = the percentage of households viewing television who are tuned to a given program, estimated every half hour.
4. *Loss* = the change in the percent of television households viewing a particular program between the first and second half of each 30-minute segment (Loss = Audience 1 = Audience 2).

FINDINGS

Analysis of the data necessarily takes place at two data levels. Treating television as an industry with a common production technology, it is possible to estimate the relative importance of program attributes like violence to audience production in general. One can examine the simple correlation between separate estimates of violent content and estimates of audience size. Industry-wide production

funcitons can be estimated which reflect the independent contribution of several content variables to overall industry output when all other factors are held constant. Most studies of the relationships between content, or program type and audience or viewer preference are focused at this general level.

However, it has been noted that treating the industry as a whole fails to consider two important factors of the audience production process. First, production takes place within a set period of time, and the audience or product is not consumed, but may be produced again in the next time period. During that time period, a quarter hour in this analysis, there is more than one producer seeking to use the resources out of which audiences are made. Thus, the industry-wide model does not adequately reflect the competition for resources which describes audience production. By examining the simple correlation between attribute and audience, the industry-wide analysis does not account for the significant differences between quarter hour periods, in terms of the amount of choice the television household is presented with. Secondly, the industry-wide approach fails to consider the likelihood that each network, or producer may either use a slightly different production technology, or may be somewhat more efficient in the use of the same technology. Both of these considerations are taken into account in the second level of analysis.

INDUSTRY LEVEL ANALYSIS

In examining the correlations between program attributes and a variety of output measures, we are not surprised to find old, returning programs are successful in producing large audiences (Table One). However, we are surprised to discover that the amount of violence is relatively unimportant to audience size, while the seriousness and significance of that violence is inversely related to audience size. That is to say, that when the violence is serious, rather than humorous, sham violence, there are generally smaller audiences. Similarly, when the violence is the major outstanding feature of the climax, as opposed to being incidental to the plot, the audience tends to be smaller.

Since there are important interactions between these variables, including them in a multiple regression equation makes it possible to examine their importance with all other factors held constant. Here we find that the amount of violence emerges as a significant factor in all three equations (Table Two). In each equation, the sign of the coefficient should be interpreted to mean that increases in the amount of violence are associated with increases in the size of the audience for each program. The negative sign in the third equation reflects the fact that there was a negative loss, or gain in audience between first and second quarters when there was more violence in the program

The seriousness of the violence is not significant in any of the equations, suggesting that much of the variance in seriousness is

captured when the amount of violence is held constant. The role of the significance of violence to the plot or climax also is diminished in these equations, however, it is still an important, negative factor in the audience production process. The significant negative coefficients for Year may be a reflection of the increased competition from non-network program sources in recent years.

NETWORK LEVEL ANALYSIS

With each network treated as an individual firm, and with the relevant production period identified as the half hour, we are able to specify the production function more completely, as is reflected in the greately enlarged coefficients of determination (R-square).

In this form, we are able to see that the output of ABC is determined not only by the attributes of ABC programs during any half hour, but by the attributes of simultaneous offerings by NBC and CBS (Table Three). Though only the third equation is significant at the .O1 level, each has several significant variables. We see that the amount of violence in competing CBS programs has a significant and negaive e influence on the size of the ABC audience.

In fact, CBS program attributes were generally the most important determinants of ABC audience shares (ABC 2), though in the second quarter measures (ABC 1), it is apparent that ABC programs were more successful against NBC continuing programs.

The amount of violence in ABC programs was of little importance in any estimate of productivity, and the seriousness of that violence actually contributed to a loss of audience betweenclock half hours (ABC 3).

None of the equations for NBC were significant, though as for ABC, several variables are significant at the .O1 level. Not a single attribute of NBC's own programming apparently made any important contribution to variance in audience size(Table Four). However, measured, returning series on CBS always meant smaller audiences for NBC, as reflected in high negative coefficients for CBS/Old in NBC 1 and NBC 2. The high positive coefficient (p.355) in NBC 3 should be interpreted to mean that when a returning series wasscheduled next on CBS, more of NBC's audience changed channels to watch that series.

Part of the success of CBS programs in competition with NBC, was apparently the attractiveness of their violence. A lot of violence, incidental to the plot on CBS programs apparently cost both NBC and ABC their audiences. Though ABC was not able to draw audiences away from CBS with liberal doeses of violence, it is apparent that this approach did improve their competitive stance against NBC. The amount of violence in ABC programs was a significant negative influence in both NBC 1 and NBC 2

The most successful models was estimated for CBS. This is understandable in part because of the long history of ratings leadershp

which CBS enjoyed until it was unseated by ABC. Thus, it is reasonable to assume hat the CBS technology had be n tested and refined, while the other two firms were trying different program mixes in search of an optimum formulation. There is support for this finding in Joseph Dominick and Millard Pearce's (1976) study of trends in network prime-time programming. They note that "all threenetworks seldom undertake major content shifts in the same year; two usually change, while the third remains stable (p. 78)."

We are able to explain more than 70 percent of the variance in the percent of households viewing CBS programs during the seven sample weeks, 60 percent of the variance in audience share, and nearly 60 percent of the changes between previous and first quarter audiences (Table Five).

The CBS package contained a liberal amount of violence as reported by Gerbner et al 13, and apparently paid off in terms of ratings and audience shares. Both coefficients for the amount of violence in CBS programs were positive and significant at the .01 level (CBS 1, CBS 2). To a greater extent than with the other networks, the less significant the violence was to the plot or to the climax of the program, the more it contributed to audience size

The only serious competition CBS was faced with during these years was apparently from establishing NBC programs, since the appearance of a continuing NBC serial during the same half hour meant a significant loss in both ratings and shares for CBS, if all other factors were equal.

NETWORK LEVEL ANALYSIS

With each network treated as an individual firm, and with the relevant production period identified as the half hour, we are able to specify the production function more completely, as is reflected in the greately enlarged coefficients of determination (R-square). In this form, we are able to see that the output of ABC is determined not only by the attributes of ABC programs during any half hour, but by the attributes of simultaneous offerings by NBC and CBS (Table Three). Though only the third equation is significant at the .01 level, each has several significant variables. We see that the amount of violence in competing CBS programs has a significant and negative influence on the size of the ABC audience.

In fact, CBS program attributes were generally the most important determinants of ABC audience shares (ABC 2), though in the second quarter measures (ABC 1), it is apparent that ABC programs were more successful against NBC continuing programs.

The amount of violence in ABC programs was of little importance in any estimate of productivity, and the seriousness of that violence actually contributed to a loss of audience between clock half hours (ABC 3).

None of the equations for NBC were significant, though as for ABC,

several variables are significant at the .O1 level. Not a single attribute of NBC's own programming apparently made any important contribution to variance in audience size(Table Four). However, measured, returning series on CBS always meant smaller audiences for NBC, as reflected in high negative coefficients for CBS/Old in NBC 1 and NBC 2. The high positive coefficient (p.355) in NBC 3 should be interpreted to mean that when a returning series wasscheduled next on CBS, more of NBC's audience changed channels to watch that series.

Part of the success of CBS programs in competition with NBC, was apparently the attractiveness of their violence. A lot of violence, incidental to the plot on CBS programs apparently cost both NBC and ABC their audiences. Though ABC was not able to draw audiences away from CBS with liberal doeses of violence, it is apparent that this approach did improve their competitive stance against NBC. The amount of violence in ABC programs was a significant negative influence in both NBC 1 and NBC 2

The most successful models was estimated for CBS. This is understandable in part because of the long history of ratings leadershp which CBS enjoyed until it was unseated byABC. Thus, it is reasonable to assume hat the CBS technology had been tested and refined, while the other two firms were trying different program mixes in search of an optimum formulation. There is support for this finding in Joseph Dominick and Millard Pearce's (1976) study of trends in network prime-time programming. They note that "all threenetworks seldom undertake major content shifts in the same year; two usually change, while the third remains stable (p. 78)."

We are able to explain more than 7O percent of the variance in the percent of households viewing CBS programs during the seven sample weeks, 6O percent of the variance in audience share, and nearly 6O percent of the changes between previous and first quarter audiences (Table Five).

The CBS package contained a liberal amount of violence as reported by Gerbner et al [13], and apparently paid off in terms of ratings and audience shares. Both coefficients for the amount of violence in CBS programs were positive and significant at the .O1 level (CBS 1, CBS 2). To a greater extent than with the other networks, the less significant the violence was to the plot or to the climax of the program, the more it contributed to audience size

The only serious competition CBS was faced with during these years was apparently from establishing NBC programs, since the appearance of a continuing NBC serial during the same half hour meant a significant loss in both ratings and shares for CBS, if all other factors were equal.

DISCUSSION

Production functions at both the industry and network level provide support for the frequently expressd belief that violence is an important

factor in the production of television audiences. For CBS, the industry leader during the bulk of the sample period, the amount of violence in its program schedule emerged as one of the most important contributions to audience size. The data suggest that not just any violence will seve the broadcaster's purpose, since in the experience of CBS, it was the gratuitous, less serious violence that contributed most to audience size.

However, while the industry model may be interpreted to mean that the average viewer prefers more rather than less violence, the network-specific model suggest that it depends upon which network has the program, and what else is available during the viewing period. This suggest, of course, that there are other, perhaps more important variables not included in this model which would explain why violence works for CBS and not for the other networks.

In addition, several factors would argue for caution in interpreting the network models. Because of the statistical requirements for comparability in multiple regression, missing data for any variable for any network would result in the elimination of the entire half hour period. Thus, the network equations were estimated on the basis of a relatively small number of program periods (n = 54). And since the Cultural Indicators Project did not generate data for variety, sports, or information specials, only 18 percent of the half hour periods in the seven sample weeks could be included in the analysis of networks, while some 459 cases were included in the industry analysis.

Finally, after 1976, there have been significant changes in television programming and by inference, audience tastes. With ABC in place as the new ratings leader, we would expect changes in the coefficients for the variables in their model. Indeed, the coefficients for all the models would differ if a seven week sample were analysed for the 1977-78 season. As Ray Hill (1977) suggests, audience tastes are no longer predictable, since program changes have become the rule, whereas in the past familiar characters and situations represented the route to success

> "A few years ago networks could point to stable audiences. The shows appeared each week. They appeared in the same time slots. The viewers knew when and where to find them. Now everything is a jigsaw puzzle...It used to be that there was a new season and a second season...Now each week is a new season (p.33)."

However, when the industry settles again into a stable pattern, as it must if it is going to retain the devotion of the advertising community, the production function approach can describe that new technology. In addition, if production cost and advertising revenue data are introduced into the model, it would be possible to estimate the marginal product of various program attributes in dollar terms. That is, multiple regression would allow the estimation of the marginal cost of attributes such as violence, humor and sexual innuendo, so that they could be compared

with the marginal revenue associated with the sale of audiences with particular demographic characteristics.

CONCLUSION

Clearly this effort represents just a start. Data has been limited to a single class of program attributes, measured on a small and possible biased sample. Yet, I believe that the method points the way toward improvement of regulatory efforts on the part of the FCC, RTC,. FDA, or any other agency that would seek to regulate program content. With approach, empirical evidence could be brought to bear on regulatory decision making in the area of CATV, subscription television, and other telecommunications systems which are seen to threaten the economic viability of broadcasting as we know it today.

Foot Notes

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TABLE ONE

Input-Output Correlations at the Industry Level

Output Measures	Input Factors					
	Serious	Significant	Amount	Year	Old	Time
Audience I	-.071 *	-.051	-.034	-.007	.071 *	-.026
Audience II	-.093 *	-.079 *	-.023	.022	.095 **	-.047
Share	-.109 **	-.114 **	.007	.016	.331 **	-.070 *
Loss	.010	.030	-.035	-.060	-.018	.023

* p= less than .05
** p= less than .01

TABLE TWO

Industry-Wide Production Functions (N=459)

FACTORS	l_1	l_2	l_3
Old	.203**	.343*	-.005
Year	-.100**	-.100**	-.061
Amount	.163**	.124**	-.096*
Significant	-.083	-.147*	.140*
Serious	-.031	.017	-.051
Time	-.021	-.052	.012
R-squared	.064	.139	.013
F	5.223**	12.228**	1.054

l_1 = Percent of television households watching a given program in the second quarter-hour

l_2 = Percent of viewing households watching a given program durin each half-hour

l_3 = Loss of viewers between first and second quarter hours

* = p less than .05
** = p less than .01

TABLE THREE

ABC Audience Production Functions (N=54)

FACTORS	ABC_1	ABC_2	ABC_3
ABC/Serious	-.075	-.092	.302**
ABC/Significant	.120	.194	.101
ABC/Amount	-.213	-.227	-.189
CBS/Serious	.134	.116	.214
CBS/Significant	.167	.376**	.048
CBS/Amount	-.300*	-.339**	.127
NBC/Serious	-.020	-.007	-.036
NBC/Significant	.102	.143	.133
NBC/Amount	-.351**	.098	-.126
ABC/Old	.120	-.047	-.400**
CBS/Old	-.224	-.375**	.122
NBC/Old	.420**	.530**	.042
Year	.050	.212	.379**
Time	-.064	-.056	-.059
R-Squared	.305	.386	-.448
F	1.226	1.941	2.262*

* p= less than .05

** p= less than .01

ABC_1 = Percent of television households watching ABC in the second quarter hour.

ABC_2 = Percent of viewing households watching ABC during each half hour.

ABC_3 = Change between previous and first quarter hour audience

TABLE FOUR

NBC Audience Production Functions (N=54)

FACTORS	NBC 1	NBC 2	NBC 3
ABC/Serious	-.205	-.112	.032
ABC/Significant	.011	.096	.028
ABC/Amount	-.276*	-.317**	-.086
CBS/Serious	.177	-.006	.199
CBS/Significant	.258	.541***	.221
CBS/Amount	-.387**	-.318*	-.058
NBC/Serious	-.175	-.128	.015
NBC/Significant	-.129	-.081	-.039
NBC/Amount	.170	.213	-.109
ABC/Old	.088	-.192	-.256
CBS/Old	-.355*	-.399**	.355**
NBC/Old	.063	.236	-.125
Year	-.222	-.042	.223
Time	.118	.162	.003
R-Squared	.221	.245	.383
F	.877	1.000	1.914

* p = less than .05

** p = less than .01

NBC 1 = Percent of television households watching NBC in the second quarter hour.

NBC 2 = Percent of viewing households watching NBC during each half

NBC 3 = Change between previous and first quarter hour audience for

TABLE FIVE

CBS Audience Production Functions (N-S4)

FACTORS	CBS 1	CBS 2	CBS 3
ABC/Serious	.043	.154	.529**
ABC/Significant	-.189	-.144	-.039
ABC/Amount	.259**	.247**	.059
CBS/Serious	-.044	-.198	.235*
CBS/Significant	-.747**	-.585**	.116
CBS/Amount	.382**	.517**	-.058
NBC/Serious	-.096	-.000	.129
NBC/Significant	.024	.053	.132
NBC/Amount	.126	.098	-.106
ABC/Old	.382**	.104	-.156
CBS/Old	.650**	.709**	.140
NBC/Old	-.573	-.446**	-.066
Year	-.341**	-.197	.375**
Time	.057	.028	.061
R-Squared	.708	.604	.593
F	6.782**	4.705**	4.065**

* p = less than .05

** p = less than .01

CBS_1 - Percent of television households watching CBS in the second quarter hour

CBS_2 = Percent of viewing households watching CBS during each half

CBS_3 = Change between previous and first quarter audience for CBS

TELEVISION AND THE COURTROOM: A REVIEW OF KEY CASES

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In the fall of 1977 the case of *Florida v. Zamora* brought into sharp focus a long simmering controversy betwen the media and the courts. The generation long battle which this essay will review is the fight to keep the camera and especially the television camera out of the courtroom. The Zamora case marked at least a partial victory for the camera[1] and it may well turn out to be the landmark case in this legal contest.

In order to understand this situation it may be best to review the past. The law and the court system which makes the law is an extremely conservative institution. One need only look at the traditional black robe worn by the judge, and the use of archaic Latin terminology to be forcefully reminded of the visible symbols of that conservatism. Gillmor and Barron write that the camera ban dates from the trial of Bruno Haupmann for the kidnap-murder of the Lindbergh baby in 1935.[2] That case was marked by intensive media coverage and unprecendented public interest. The response of he lawyers and judges was the adoption by the American Bar Association in September of 1937 of Canon 35 of its Judicial Ethics.

> Proceedings in court should be conducted with fitting dignity and decorum. The taking of photographs in the courtroom during sessions of the court or recesses between sessions, and the broadcasting of court proceedings are calculated to detract from the essential dignity of the proceedings, degrade the court and create misconceptions with respect thereto in the mind of the public and should not be permitted.[3]

Cannon 35 was amended in 1963 to include television. That action itself a fifteen year delay after the post war growth of American television is indicative of the reactions of the legal profession and its rate of response to change

While the Lindbergh case clearly precipitated the adoption of Canon 35, it was not the first example of court-media friction over the issue of bringing the camera into the courts. That distinction would would appear to belong to the more or less forgotten case *Ex Parte Sturm*, 152

Md. 114, 136 A. 312, (1927). That case involved the conviction for contempt of a photographer, managing editor, and city editor of the Baltimore News for publishing photographs of a murder trial contrary to the order of the court.

> The challenge in this case of the court's right to forbid the use of cameras in the courtroom during the progress of the trial presents an issue of vital importance. If such a right should yield to an asserted privilege of the press, the authority and dignity of the courts would be seriously impaired...The constitutional right of the accused to a public trial is a privilege intended for his benefit. It does not entitle the press or the public to take advantage of his (the accused) involuntary exposure at the bar of justice.[4]

It would appear that at least two factors were operating in the original impetus to ban the camera; one was the shielding of the parties to the case from publicity, and the second was the perceived negative impact on court decorum of the act of photographing the proceedings. The "decorum" problem can be attributed to the early technology of picture taking indoors. In the 1920's and the 1930's flash powder and flashbulbs were used and those devices did create some noise and bursts of intense light which could be distracting. Presumably radio was included in Canon 35 as an afterthought.

Even after flashbulbs were eliminated by advancing technology the courts continued to uphold the camera ban as shown in the case of *Brumfield v. State, 108 So. 2d 33* [*Florida 1959*], which was a Florida Supreme Court decision upholding a contempt conviction of a news photographer who had photographed a rape charge defendant in a corridor leading to a courtroomm.[5] It seems clear in this case that the desire to shield the defendant from publicity was operative.

Canon 35 was not adopted in Colorado, Oklahoma, Texas, and Alabama; Washington, and most recently Florida have modified the blanket prohibition. There are four major court cases involving television and the courtroom which seem worthwhile to review. The earliest was *People v. Goss 10 Illinois 2nd 533, 141 N.E. 2d 385* [*1957*]. A television newsman, Thomas Goss, reported on a divorce case being heard in Cook County, as part of an evening news program on a Chicago television station. The court held that:

> Under our decisions a publication is contemptuous only if it is "calculated to impede, embarrass, or obstruct the court in the due administration of justice." ...The publication must tend to affect the outcome of a pending case. On the other hand, it is not necessary to show that an interference with the administration of justice has actually occurred.[6]

This case in which Goss's ten day jail sentence and $100 fine were upheld may be the most restrictive ruling made involving television since it involves reporting on the case with no attempt being made to use a camera. Proceeding chronologically, our next case was tried in 1961, *United States v. Rees, 193 F. Supp. 864.* A Baltimore

TV station assembled the jury in the kidnap-murder trial of Melvin Rees, Jr. in front of the cameras and persuaded the jury to reenact its deliberations and discuss the evidence while the trial was in progress. The night before Rees (by then convicted) was sentenced, the station presented a video tape of the show. The spectacle was called "chilling in the extreme,"[7] and no doubt convinced many judges that the media and especially television should be kept out of the courtroom and the court house.

Another case with a similar effect was *Rideau v. Louisana*, 373 U.S. 723, 83 S. Ct. 1417, (1963). Once again we have a case in which the involvement by television was outside of the courtroom. Wilbert Rideau was charged with bank robbery, kidnapping, and murder in Lake Charles, Louisana While he was being held for trial Rideau was interviewed by the local sheriff and that interview was filmed and shown on local television. In the course of the interview during which Rideau was not represented by an attorney, he admitted his guilt in the bank robbery, kidnapping, and murder.

Subsequently Rideau's defense counsel requested a change of *venue* so that the trial might be held in a different part of the state where the potential jury would not have seen Rideau's televised confession. This appeal was denied and Rideau was convicted and sentenced to death.

> ...due process of law in this case required trial before a jury drawn from a community of people who had not seen and heard Rideau's televised "interview." "Due process of law, preserved for all by our Constitution, commands that no such practice as that[8]

Rideau was granted a new trial at which he was convicted.

In 1962 Billie Sol Estes, a Texas wheeler-dealer financier, was tried and convicted for theft, swindling and embezzlement. In spite of the objections of Estes and his attorney, the judge under Texas law was able to permit television and radio coverage of parts of the trial. Estes appealed his conviction to the Texas Court of Appeals in 1964 partly on the grounds that he had been deprived of his rights to due process by the contested broadcasting of his trial. The Texas court sustained the conviction and Estes carried his appeal to the United States Supreme Court. The Supreme Court reversed the conviction thus granting Estes a new trial. The thinking of the court is clearly revealed in the opinion delivered by Justice Clark.

> These initial hearings were carried live by both radio and television, and news photography was permitted throughout. The videotapes of these hearings clearly illustrate that the picture presented was not one of judicial serenity and calm... Indeed at least 12 cameramen were engaged in the courtroom throughout the hearing taking motion and still pictures and televising the proceedings. Cables and wires were snaked across the courtroom floor, three microphones were on the judges' bench and others were beamed at the jury box and counsel table. It is conceded that

the activities of the television crews and news photographers led to considerable disruption of the hearings... Nor can the courts be said to discriminate where they permit the newspaper reporter access to the courtroom. The television and radio reporter has the same privilege. The news reporter is not permitted to bring his typewriter or printing press. When the advances in these arts permit reporting without their present hazards to a fair trial we will have another case... The notion should be dispelled that telecasting is dangerous because it is new. It is true that our empirical knowledge of its full effect on the public, the jury or the participants in a trial, including the judge, witnesses, and lawyers, is limited... Finally, we cannot ignore the impact of courtroom television on the defendant. Its presence is a form of mental- if not physical- harassment, resembling the police line-up or the third degree... A defendant on trial for a specific crime is entitled to his day in court, not in a stadium, or a city or nation-wide arena. The heighten public clamor resulting from radio and television coverage will inevitably result in prejudice... The necessity for sponsorship weighs heavily in favor of televising only notorious cases, such as this one, and invariably focuses the lens upon the unpopular or infamous accused...It is said that the ever-advancing techniques of public communication and the adjustment of the public to its presence may bring about a change in the effect of telecasting upon the fairness of criminal trials...Our judgement cannot be rested on the hypothesis of tomorrow but must take the facts as they are presented today.[9]

The strong language of this opinion would lead one to concur with the judgement of Gillmor and Baron that Justice Tom Clark's opinion for the majority (in the Estes case) closed the courtroom doors to cameras- at least for the immediate future.[10] Given that situation how can we account for the televising of the Zamora case a scant twelve years after the Estes decision? At least three factors can be cited in attempting to answer this rhetorical question.

First, in both the Rideau and Estes cases the new trials granted by the courts did not result in different outcomes. Hence, in spite of the tongue lashings administered to television, there was no change in the final verdicts of these two cases.

Second, there have been a few successful examples of courtroom television. In 1935 KOMU-TV in Columbia, Missouri broadcast the initial live coverage of a criminal trial. It was a murder trial in which the defendant was acquitted. Futhermore, all parties concerned praised the work of KOMU-TV in doing the broadcast. The defense attorney stated, "I feel your coverage of this trial has been fair and honest." Judge Sam Blair added, "Your television coverage should have a salutory effect on the public. Too many, through being uninformed, believe that court procedures are farcial and often feel that there are miscarriages of

justice. You KOMU-TV newsmen have done a wonderful job of reporting this trial. Hardly anyone knew you were there.[11]

In a 1956 trial, North Dakota Judge A.J. Gronna, permitted KPLM of Minot, North Dakota, to telecast a murder trial to prevent what the judge felt was the character assassination of an innocent defendant. Once again a judge commended a station for its coverage of a trial.[12]

In another Texas case in 1955 a post-trial study of the telecasting of a trial in Waco, found that all of the participants in a murder trial agreed that television had caused no serious interference.[13] But, it should be noted that all three of the above mentioned cases resulted in exoneration of the defendants and consequently none of the judgements were appealed.

Third, the two conditions mentioned by Justice Clark in his opinion in the Estes case have come about. The first point sugested by Clark was technological advancement which can be observed in the significantly less obtrusive, smaller television camera of today which can operate at normal courtroom light levels. Justice Clark alludes to 12 cameramen being present in Texas courtroom where Billie Sol Estes was tried in 1962, the trial of Ronney Zamora in Florida in 1977 was covered by one cameraman. When you add to this the improvement in microphones, videotape equipment, and production techniques, it is clear that the problem of courtroom television hardware has been solved.

The second condition Justice Clark referred to was the adjustment of the public to public television. Since that opinion was written in 1965 we have had the acceptance of videotaped trials in Ohio and other states. During the same time period home videotaping units and cameras have been introducted and have enjoyed considerable sales and acceptance. This would suggest that the American public has indeed become used to the presence of television as a constant companion. However, the Estes case remains the precedent at this time. This simply means that should a defendant in a criminal case object to the presence of the television camera during a trial, failure to respect that objection would constitute a basis for an appeal on the grounds that the defendant was deprived of due process and thus a fair trial as defined by Justice Clark in *Estes v. Texas*. This brings us to an examination of how and why the televising of the Zamora trial came about.

The televising of the Zamora trial was made possible by a one year experiment ordered by he Florida courts as a result of a lengthly court battle by the Post-Newsweek Television stations in Florida.[14] Under the rules of the Florida experiment the consent of the defendant was not required and Ellis Rubin, the attorney for Ronney Zamora offered no objection. Judge Baker who presided at the Zamora trial was reported to be initially skeptical about the TV coverage case but later came to accept it.

> I admit that in the beginning- I guess like most jurists- I was skeptical, very skeptical. Take the defendant's rights. If the fellow's innocent he doesn't want to have his picture broadcast, or his friends looking at TV news to see he's been charged with a crime.

> Then there's a fear that jurors could be intimidated- either to acquit or convict the accused... Or that witnesses might suddenly become actors, playing to the crowd and camera and over-dramatizing their testimony. But, at this point I'd have to say that I have not seen any evidence that it cannot work. I haven't seen the jury paying any attention to the camera; I haven't seen any witnesses being influenced by it.[15]

In addition, to Judge Paul Baker, the defense counsel was also supportive of the televising of the Zamora case saying "This is the first time I've been able to go home every night and watch a replay. It shows me what I did wrong- and you do more wrong than right. After the first night I began receiving calls from other lawyers. They had watched the trial and wanted to give advice."[16]

This statement by attorney Rubin may provide a clue to why the defense counsel did not object to the telecast, although under the Florida experiment rules his consent was not required. It was no doubt clear to Ellis Rubin that the Zamora case would make him an extremely well known figure in Florida. He might well become the best known defense lawyer in the state as a result of the television exposure. At a time when the courts had decided that attorneys might advertise, Ellis Rubin was being given enormous free television exposure. It seems reasonable to assume that Rubin realized that there was a reasonably high degree of probability that he would lose the Zamora case but he could have concluded that the end result would be favorable to him.

There is no way to determine if the television exposure prompted Rubin to employ the novel defense that Ronney Zamora was not guilty because of temporary insanity resulting from repeated exposure to television violence. But, the question is none the less an intriguing matter for both speculation and concern. If a courtroom television becomes commonplace, attorneys may base acceptance or rejection of a case, or even the setting of fees on whether or not the case would be televised.

Conclusions

An overview of the history of camera in the courtroom litigation can lead us to certain observations and perhaps a basis for some prognostication about future developments. Clearly the present legal constraints on cameras in the courtroom developed from two situations. First there was a desire to shield the parties to a trial from publicity and pressure. However, this goal has not always been realized; the media have been free to employ both reporters and sketch artists and both electronic and print journalists have been thorough and ubiquitous in their coverage of the legal arena.

Second, the courts have consistently expressed concern with the violence to the "decorum" of the courts which resulted from the activities of cameramen and photographers. Implied in both of these

objections has been the notion that somehow the camera would intimidate or pressure witnesses, jurors, and defendants. The second objection has not been supported by the majority of the examples of televised cases or by the most recent example, *Zamora*. On the contrary Judge Baker concluded, "The conduct of the Zamora trial in this pilot experiment must be viewed as a success. This was due to the excellent cooperation of all press personnel involved.[17]

At the time this paper was being written the final decision of the Florida courts on the continuation of the one year experiement in trial television had not yet been released. I will predict that the experiment will not be continued at this time. I am convinced that the technical and adjustment problems involved in courtroom television have been solved, but I believe that our conservative legal establishment will require at least another decade or longer to accept and institutionalize such a break with past precedents. I would also predict that courtroom television will begin on a voluntary basis requiring the agreement of defense, prosecution or plaintiff, and the judge, at least for the foreseeable future.

The late Federal Court of Appeals Judge and Yale Professor, Jerome Frank, may have uttered the first and last word on this issue when he wrote the words that follow:

> A better device would be one that I proposed in 1930: Have a "talking movie" of each trial. It would completely reproduce the manner in which the witnesses testified, so that the upper court judges could form their own, independent, impressions of the trial.[18]

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3 Gillmor and Barron, p. 452.
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